

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - - - -

David L. Cummin, M.D.,	:	
et al.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	Case No. 2:15-cv-1043
	:	Judge Sargus
Lanny North, et al.,	:	Magistrate
	:	Kimberly A. Jolson
Defendants.	:	
	:	

- - - - -

DEPOSITION OF DAVID L. CUMMIN, M.D.

VOLUME 2

- - - - -

Taken at Brunner Quinn  
35 North Fourth Street, Ste. 200  
Columbus, OH 43215  
June 10, 2016, 2:08 p.m.

- - - - -

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A P P E A R A N C E S

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By Rick L. Brunner, Esq.

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ON BEHALF OF DEFENDANT VALKINBURG:

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Columbus, OH 43215  
By J. Stephen Teetor, Esq.  
Aaron M. Glasgow, Esq.

ALSO PRESENT:

Michael Lane - Videographer  
Lanny North  
David Valkinburg  
Edwin Downs  
Crystal Cummin

Friday Morning Session

June 10, 2016, 2:08 a.m.

- - - - -

S T I P U L A T I O N S

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It is stipulated by counsel in attendance that the deposition of David L. Cummin, a Plaintiff herein, called by the Defendants for cross-examination, may be taken at this time by the notary pursuant to notice and subsequent agreement of counsel that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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1 THE VIDEOGRAPHER: We are on the record  
2 at 2:08. Would counsel please announce their  
3 presence.

4 MR. BARBIERE: I'm Larry Barbieri for  
5 Ed Downs.

6 MR. TEETOR: Steve Teetor for Dave  
7 Valkinburg.

8 MR. GLASGOW: Aaron Glasgow for Dave  
9 Valkinburg.

10 MR. LAMBERT: Randall Lambert, attorney  
11 for commissioners, sheriff and prosecutor.

12 MR. BRUNNER: Excuse me. Rick Brunner,  
13 Brunner Quinn for the plaintiff.

14 - - - - -

15 DAVID L. CUMMIN, M.D.  
16 being first duly sworn, testifies and says as  
17 follows:

18 CROSS-EXAMINATION

19 BY MR. BARBIERE:

20 Q. Dr. Cummin, my name is Larry Barbieri.  
21 I represent Ed Downs. I'm going to be asking you  
22 some questions here today. You're under oath.

23 If I ask you a question which you don't  
24 understand, please stop me and ask me to repeat

1       myself. I want to be certain you understand each  
2       question before you answer. Is that understood?

3       A.           It is.

4       Q.           Also so we can get a good record, it's  
5       important that when you answer the questions, you  
6       answer out loud because it's hard for the court  
7       reporter to get it down if you say uh-huh or  
8       huh-uh or shake your head or something of that  
9       nature. Fair enough?

10      A.           Fair enough.

11      Q.           Any time you want to take a break  
12      during the course of the deposition, just please  
13      answer the pending question and then you can go  
14      ahead and take a break, okay?

15      A.           Okay.

16      Q.           What is your annual salary as the  
17      Hocking County Coroner?

18      A.           \$25,102.

19      Q.           And is that the same salary that you  
20      had in 2014?

21      A.           Yes.

22      Q.           Was it the same in 2013?

23      A.           I believe so.

24      Q.           What are your job duties as the Hocking

1 County Coroner?

2 A. I think there's listed I'm supposed to  
3 be a death investigator and declare -- find the --  
4 the manner and mode and cause of death.

5 Q. As a death investigator, what do you  
6 do?

7 A. I look at all the information available  
8 and then I make a ruling.

9 Q. Okay. Let's go to 2013. I want to  
10 just take your duties in 2013 for an example. I  
11 think I read that you told the commissioners in  
12 the May 2014 meeting that there were approximately  
13 300 deaths in 2013. Does that sound right to you?

14 A. Sounds accurate.

15 Q. Those -- would those 300 deaths be  
16 deaths that someone from your office would have  
17 gone to the scene in order to try to determine the  
18 cause of death?

19 A. No.

20 Q. Okay. When is it that someone from  
21 your office goes to the scene to try to determine  
22 the cause of death? And again I'm talking about  
23 2013.

24 A. When we feel that it is necessary or

1 helpful.

2 Q. Is there any kind of statutory rule as  
3 to when someone from your office is supposed to go  
4 to the scene of a death?

5 A. No.

6 Q. Do you have any kind of office policy  
7 or protocol as to when someone from your office  
8 will go to the scene of a death?

9 A. No.

10 Q. Do you know how many times in 2013 out  
11 of the 300 people that died approximately someone  
12 from your office went to the scene of the death?

13 A. Do I have an idea?

14 Q. Yes.

15 A. I could give you a range.

16 Q. Okay. Give me a range.

17 A. Maybe 30 to 50 times.

18 Q. Now, of those 30 to 50 times that  
19 someone from your office went to the scene of a  
20 death in 2013, how many times did you go to the  
21 scene of a death?

22 A. Probably 80 percent.

23 Q. If you didn't go to the scene of a  
24 death, who else from your office would have gone?



1       A.           It would have been one of my  
2       investigators.

3       Q.           And who were your investigators in  
4       2013?

5       A.           Jamie Walsh and Mike Downhour.

6       Q.           When you went to a scene of a death in  
7       2013, did you go by yourself ordinarily from your  
8       office or did one of your investigators go with  
9       you?

10      A.           It would depend on the circumstances,  
11      the time, if we had gotten a lot of calls that  
12      week.  It's -- it could be me alone, it could be  
13      them alone, it could be three of us, it could be  
14      two of us.

15      Q.           Okay.  So --

16      A.           We're on call 24 hours a day.  So if  
17      somebody is at a family event, we -- and we don't  
18      think we need to interrupt that, we try not to.

19      Q.           Do you get paid extra when you go to  
20      the scene of a death?

21      A.           No.

22      Q.           So your \$25,100 salary stays the same?

23      A.           That is correct.

24      Q.           In 2013, I assume you were out of

1 Hocking County from time to time?

2 A. I assume I was.

3 Q. When you were out of Hocking County in  
4 2013, who covered for you in your duties as  
5 coroner?

6 A. Myself normally and then I would have  
7 my investigators available.

8 Q. And if someone had to go to the scene  
9 of a death in 2013 when you were out of town, who  
10 would have gone?

11 A. It would have been Mike Downhour and  
12 Mike Stephenson, as a subcontractor, and Jamie  
13 Walsh would be the available people.

14 Q. During 2013, was there ever a time when  
15 anyone went to a scene of a death in Hocking  
16 County other than someone from your office?

17 A. Possibly.

18 Q. Okay.

19 A. I mean there could have been a  
20 subcontractor too.

21 Q. What I'm -- what I'm trying to get at  
22 is did you have -- did you contract with anyone  
23 else in 2013 to cover for you as coroner and go to  
24 a scene of a death?

1       A.               We might have had Seth Riddlebarger. I  
2       mean he -- I don't know if he -- what his  
3       situation was at the time.

4       Q.               He's another investigator, though,  
5       right?

6       A.               He's not an investigator, but he's  
7       pretty capable.

8       Q.               In --

9       A.               He's not a full investigator.

10      Q.               In 2013, did your office contract with  
11      any physicians to assist you in performing your  
12      duties as a coroner?

13      A.               I don't know.

14      Q.               In 20 --

15      A.               Contract -- we wouldn't have had a  
16      contract. We would have had -- things have  
17      changed. If I'm out of town and somebody dies and  
18      they need to be cremated, I have to have the  
19      availability of a physician's signature right then  
20      and there. And so that's where we could have  
21      potentially had a John Ireton or somebody cover  
22      pretty much to sign the death certificate. They  
23      wouldn't have done any of the investigations they  
24      would have done any of that, but I would have had

1 the physician's signature with the aid of my  
2 investigators doing all the work. Now --

3 Q. Would your -- we're talking about 2013  
4 then?

5 A. Correct. Now, I can sign one anywhere  
6 in the world.

7 Q. Let me -- okay.

8 A. It's electronic.

9 Q. That's --

10 A. I don't need that.

11 Q. Okay. Let's go back to 2013. If  
12 Dr. Ireton or someone of that nature had signed a  
13 death certificate, would your office have paid him  
14 money to do that?

15 A. Yes.

16 Q. And how much would you have paid him to  
17 do that?

18 A. 1/365th of my salary --

19 Q. All right.

20 A. -- of that year. So one -- it would  
21 have been -- \$25,102 divided by 365 days.

22 Q. Do you know in 2013 if any physician  
23 received any money from your office for doing  
24 services such as signing a death certificate or

1 any other service?

2 A. I don't know.

3 Q. So --

4 A. Not sure.

5 Q. -- is that something you would have had  
6 a record of?

7 A. No. The auditor would.

8 Q. All right.

9 A. We would not keep a record of that.

10 Q. Let's go back to 2012. In 2012, do you  
11 know approximately how many deaths there were?

12 A. It would be similar to 2013.

13 Q. So approximately 300 deaths in Hocking  
14 County in 2012?

15 A. That I would be called on, yes.

16 Q. And do you know approximately how many  
17 times someone from your office visited the --

18 A. It would be the same.

19 Q. Please wait until I'm finished with my  
20 question.

21 Do you know approximately in 2012 how  
22 many times someone from your office would have  
23 responded to a death scene?

24 A. Same answer as the previous -- or the

1 next year.

2 Q. Which is?

3 A. It's a pretty consistent 30 to 50  
4 times.

5 Q. All right. And in 2012 do you know how  
6 many times you would have gone to the death scene  
7 yourself approximately?

8 A. Probably more. Probably 90 percent  
9 plus.

10 Q. Do you do any autopsies?

11 A. Personally?

12 Q. Yes.

13 A. I haven't since I was 25.

14 Q. All right. In your capacity as a  
15 coroner for Hocking County, have you ever  
16 performed an autopsy?

17 A. Not for Hocking County, no.

18 Q. Have -- are all the Hocking County  
19 autopsies performed from Franklin County?

20 A. They are.

21 Q. Have you gone to Franklin County and  
22 witnessed an autopsy?

23 A. Not as coroner.

24 Q. I'd like to direct your attention to

1 Defendant's Exhibit 8. It will be in that stack  
2 of documents right there.

3 Do you see Exhibit 8?

4 A. I do.

5 Q. And this is an e-mail it appears or a  
6 letter dated January 9th, 2014 addressed to to  
7 whom it may concern; is that correct?

8 A. Correct.

9 Q. Who was this -- first of all, was this  
10 a letter or was this an e-mail?

11 A. I believe it was sent to the  
12 commissioners via e-mail, personal service, and  
13 letter. And it was -- might be the letter that I  
14 took to the emergency agencies.

15 MR. GLASGOW: Excuse me.

16 MR. TEETOR: Excuse me. Could you keep  
17 your voice up a little. I don't hear so good.

18 A. I also believe it's also the same  
19 letter that went to the emergency agencies, 9-1-1,  
20 Sheriff's Office, police department, EMS, the  
21 hospital.

22 MR. TEETOR: Thank you.

23 Q. Okay. In this letter you say "I will  
24 be out of town for medical educational conferences

1 Thursday, January 9th-Sunday January 12th, 2013"

2 first; is that right?

3 A. Yes.

4 Q. Okay. Where did you go for that  
5 medical conference?

6 A. Dublin, Ohio.

7 Q. And did you stay in Dublin the entire  
8 time?

9 A. I did.

10 Q. The -- do you have responsibilities for  
11 continuing education --

12 A. I do.

13 Q. -- as a doctor?

14 Was this seminar that you went to from  
15 January 9th to January 12th something for  
16 continuing education?

17 A. It was.

18 Q. How many hours is your obligation each  
19 year for continuing medical education?

20 A. 50 hours.

21 Q. Then further in that sentence it says  
22 you're also going to be gone from January 23rd  
23 through January 26th of 2013.

24 A. Correct.



1 Q. Where did you go that time?

2 A. Same conference, same location.

3 Q. All right. So you were back in Dublin,  
4 Ohio for those days?

5 A. I am.

6 Q. And did you stay in Dublin, Ohio the  
7 entire time?

8 A. I did.

9 Q. So you were not in Hocking County from  
10 January 9th through January 12th, 2013 or -- it's  
11 actually 2014, right? I'm sorry. We have the  
12 wrong -- I think that's a typo there. Just so we  
13 get this corrected for the record.

14 A. I'm sorry. It probably is a typo, yes.

15 Q. Yeah. Because you wrote the letter on  
16 January 9th, 2014, right?

17 A. It appears so.

18 Q. Yes. Okay. Just so we make sure we  
19 have this clear in the record. You were in  
20 Dublin, Ohio from Thursday, January 9th through  
21 January 12th, 2014? And you were in Dublin, Ohio  
22 during that period of time?

23 A. Yes, I was.

24 Q. The same was true from Thursday,

1 January 23rd through January 26th of 2014,  
2 correct?

3 A. Correct.

4 Q. In your last sentence you say "During  
5 my above times, please contact your Hocking County  
6 Commissioners, Mr. John Walker, Mr. Clark Sheets,  
7 and Mrs. Sandy Ogle for their coverage plans and  
8 any questions concerning coroner service." Do you  
9 see that?

10 A. I do.

11 Q. Did I read that correctly?

12 A. You did.

13 Q. Did either of the commissioners or any  
14 of the commissioners indicate to you that they had  
15 some plans for coverage for your coroner duties  
16 during those periods of time when you were going  
17 to be out of town?

18 A. They did not respond to any of my  
19 letters or anything. I didn't get a phone call,  
20 an e-mail or any response to my e-mails, personal  
21 service or letters.

22 Q. So none of the commissioners indicated  
23 to you that they had any plans for coverage; is  
24 that true?

1           A.           None of them responded to my letters,  
2           e-mail or personal service; that is correct.

3           Q.           Okay. Did you expect people to contact  
4           the commissioners? Is that what your aim was in  
5           sending this letter?

6           A.           I was trying to give them a contact  
7           person that would be a responsible county official  
8           that would be able to respond.

9           Q.           Did you arrange to have somebody cover  
10          for you from January 9th to January 12th as  
11          coroner for Hocking County?

12          A.           No.

13          Q.           Did you arrange for someone to cover  
14          for you from January 23rd through January 26th,  
15          2014 as coroner for Hocking County?

16          A.           No.

17          Q.           Let's take a look at Exhibit 5, please.  
18          I know you put those underneath. I'm sorry about  
19          that.

20                       Exhibit 5 appears to be an e-mail from  
21          you to the commissioners; is that correct? Or is  
22          that a letter?

23          A.           It is a similar e-mail, personal  
24          service, and U.S. Mail.

1 Q. If we look under --

2 A. It's a different version of the -- one  
3 of the three ways I attempted to contact them,  
4 yes.

5 Q. Okay. It looks like this letter here  
6 was dated January 2nd at 5:22 p.m. Do you see  
7 that?

8 A. Yes.

9 Q. Is that the first letter that you wrote  
10 to the commissioners telling them that you were  
11 going to be out of town on -- from January 9th  
12 through 12th and January 23rd through January  
13 26th?

14 A. I -- I believe this is incorrect to  
15 some degree, because when I called the  
16 commissioners, somebody -- and I didn't have their  
17 right e-mail address. They claim they didn't get  
18 it. So I believe that is says it was sent January  
19 6th because this is a second attempt to send it  
20 via e-mail. I believe it was sent properly by  
21 e-mail on January 2nd, but I noticed that it says  
22 January 6th. So I believe this is a second  
23 attempt to send it by e-mail. It's just is  
24 different than the January -- it's the same letter

1       reattempted to be e-mailed.

2       Q.               Okay. Let's make sure we have this  
3       clear in the record. It's your belief that your  
4       first effort to notify the commissioners that you  
5       were going to be gone out of Hocking County those  
6       two dates in January was dated January 2nd at 5:22  
7       p.m.; is that true?

8       A.               I don't know what generated that. But  
9       I believe that this letter was written on January  
10      2nd and I believe it was delivered via personal  
11      service on January 2nd. I don't know how five --  
12      I didn't write 5:22 p.m. I'm not sure how this is  
13      generated.

14     Q.               Okay.

15     A.               It could be from the -- what it could  
16     have been is it could have been an e-mail and then  
17     I had to copy and paste it and then resend it.

18     Q.               Okay.

19     A.               That would be my guess.

20     Q.               Just to --

21     A.               So --

22     Q.               Just to make sure we're clear, that's  
23     your first notification to the commissioners --

24     A.               Yes.

1 Q. -- that you were going to be gone?

2 A. That's because I didn't have employees  
3 anymore as of January 1st.

4 Q. When is the next time after January  
5 23rd through January 26th that you were out of  
6 Hocking -- Hocking County for more than a day in  
7 2014?

8 A. I don't know.

9 Q. Can -- if you don't remember periods of  
10 time in there, just tell me you don't know. But I  
11 want to know each time that you can remember that  
12 you left Hocking County for some period of time.

13 A. I don't know.

14 Q. Okay. Did you leave Hocking County in  
15 June?

16 A. Yes.

17 Q. And where did you go in June?

18 A. Of 2014 I believe I went to Aruba.

19 Q. And how long did you stay in Aruba?

20 A. Eight days.

21 Q. When did you make those arrangements to  
22 go to Aruba in June?

23 A. Probably May.

24 Q. Going back to when you left to go to

1       that medical conference in Dublin, Ohio in  
2       January, when did you make the arrangements to go  
3       to that medical -- those two medical conferences?

4       A.               Probably November of 2013.

5       Q.               When you went to Aruba for those eight  
6       days in June of 2014, did you make arrangements  
7       for anybody to cover your duties as coroner?

8       A.               I did.

9       Q.               And who covered your duties as coroner?

10      A.               Jan Gorniak, the Franklin County  
11      coroner.

12      Q.               You also left Hocking County in July;  
13      is that correct?

14      A.               I did.

15      Q.               And how many times did you leave  
16      Hocking County in July 2014?

17      A.               Twice.

18      Q.               When's the first time in July 2014 that  
19      you left Hocking County?

20      A.               July 3rd through the 6th.

21      Q.               And where did you go?

22      A.               Jamaica.

23                       MR. TEETOR: I'm sorry?

24      A.               Jamaica.

1 Q. Did you notify the commissioners that  
2 you were going to be going to Jamaica from July  
3 3rd through July 6th?

4 A. I don't know. I --

5 Q. Did you notify the commissioners that  
6 you were going to be going to Aruba for eight days  
7 in June 2014?

8 A. No, because I had coverage then.

9 Q. Did you ever notify the commissioners  
10 that Jan Gorniak was going to be covering for you  
11 in June 2014?

12 A. I went to a meeting and I presented in  
13 late May, I think it was May 27th or so of 2014  
14 that she -- I was trying to remedy the situation.  
15 In January I didn't have enough time to find  
16 anybody because I didn't know I was going to be  
17 without employees. So by June I had a -- had to  
18 come up with a plan on how things were going to be  
19 covered. I felt kind of blindsided having my  
20 employees of 14 years removed of my -- from  
21 January 1st on to some degree, and so I didn't  
22 really have time to go out and find a doctor or  
23 new trained employees or any of that in January.  
24 So -- and plus they could go to the -- that was a



1 weekend and they could go in the morgue for two  
2 days until I got back. It wasn't to me a big  
3 problem.

4 But in June -- are you talking about  
5 July -- oh.

6 Q. I'm talking about June.

7 A. May 27th or so, Jan Gorniak had told me  
8 that she would cover me and I'd asked for a  
9 contract -- I'm not sure if I asked for the  
10 contract for any physician because I couldn't get  
11 any physicians to cover me because there was bad  
12 press and, you know, all kinds of difficulties,  
13 not having employees, people having to go to  
14 scenes themselves who weren't trained. Doctors  
15 don't feel comfortable doing that. So they were  
16 aware that I was attempting to fix the problem. I  
17 was trying to find a physician coverage since they  
18 -- essentially I didn't have employees anymore,  
19 and so that's what I did. So, yes, I would say  
20 they knew but I'm not sure if they really -- what  
21 they knew.

22 Q. When you --

23 A. I asked them, but I don't know what  
24 they said.

1 Q. When you lined up Jan Gorniak to cover  
2 for you in June when you went to Aruba, did you  
3 tell her how much she would be paid for doing  
4 that?

5 A. Absolutely. She asked for \$500 a day.

6 Q. Okay.

7 A. Yeah.

8 Q. Had the commissioners approved your  
9 office paying Jan Gorniak \$500 per day to cover  
10 for you?

11 A. Well, they didn't say anything to me.  
12 I presented the proposal, I proposed -- I wrote  
13 the contract up, I wrote a place for their  
14 signatures for a contract to have physician  
15 coverage and they didn't do anything with it. It  
16 just sat there.

17 Q. So --

18 A. There was no response.

19 Q. So they did not approve it?

20 A. They did not respond to anything of a  
21 personal appearance of my myself at their meeting;  
22 that is correct. They didn't approve or  
23 disapprove. But the money was in my budget, so I  
24 figured as an as elected official I could spend

1 the money allocated to me.

2 Q. So the \$500 per day was money that she  
3 would get whether she went to a death scene or not  
4 just to cover for you?

5 A. Correct.

6 Q. Was she going to be paid any extra if  
7 she went to a death scene?

8 A. No, not by our agreement. But that was  
9 not my proposal. My proposal, before that --

10 Q. Well, let's -- let's just stick with  
11 the question I'm asking.

12 A. No.

13 Q. Okay. So your agreement with Jan  
14 Gorniak for her --

15 A. A verbal agreement with her, yes.

16 Q. Okay. Your agreement with Jan Gorniak  
17 for her to cover for you during the eight days you  
18 were in Aruba in June of 2014 was that your office  
19 would pay her \$500 per day?

20 A. Yes.

21 Q. And whether she went to a death scene  
22 or not, it -- the price remained the same, \$500  
23 per day; is that correct?

24 A. Yes.

1 Q. Okay. You said you were gone from July  
2 3rd through 6th in 2014 when you went to Jamaica;  
3 is that correct?

4 A. Correct.

5 Q. Did you arrange to have anyone cover  
6 for you during that time?

7 A. I couldn't get any coverage because  
8 they didn't pay the June bill.

9 Q. Did you tell the commissioners that you  
10 were going to be out of town from July 3rd through  
11 July 6th, 2015?

12 A. I don't know what my attorney Will  
13 Kernen told them. But I know that he called -- he  
14 called Laina Fetherolf on July 1st. I asked him,  
15 I said I don't have a bill paid, I can't keep  
16 running up tabs without the commissioners paying a  
17 bill that I have money for. And I said could you  
18 please call Laina Fetherolf and ask her what the  
19 plan is. And so Will Kernen called Laina  
20 Fetherolf and he said she does not have the money  
21 to pay -- he doesn't have coverage because he  
22 doesn't have employees and they're not paying his  
23 bill, and she said it's not her problem.

24 Q. Did you --

1       A.           And he said, well, then you're not  
2       going to have coverage from July 3rd to July 6th,  
3       and she said it's not her problem again. That was  
4       the conversation they had.

5       Q.           And --

6       A.           And he called me and said: You do not  
7       have coverage.

8       Q.           Did you notify any of the commissioners  
9       that you were going to be out of town from July  
10      3rd through July 6th?

11      A.           I don't know who knew. I knew Laina  
12      Fetherolf knew. I don't know who else knew.

13      Q.           Okay.

14      A.           I don't know if I sent any memo or not  
15      or if I called. I could have verbally called, I  
16      don't remember.

17      Q.           Well, we have memos and letters that  
18      you've sent, other memos and letters that were  
19      produced by your attorney in discovery. I haven't  
20      seen any for July of 2014. Can we assume --

21      A.           It could have been -- it could have  
22      been a phone call.

23      Q.           All right. But you don't remember  
24      making any?

1 A. I didn't write one, no.

2 Q. Do you remember talking to any  
3 commissioner and telling them you were going to be  
4 out of town from July 3rd through 6th, 2014?

5 A. I don't specifically remember that. I  
6 know that the prosecutor was notified by my  
7 attorney and that there was a disagreement of how  
8 it -- having coverage.

9 Q. Did you leave again in July 2014 after  
10 July 6th?

11 A. I did.

12 Q. And when was the next time you left?

13 A. It was 11 days, late in July.

14 Q. Can you tell me what 11 days?

15 A. No.

16 Q. Were you out of town July 19th?

17 A. I believe so.

18 Q. Were you out of town July 20th?

19 A. Yes, I believe so. I knew it was in  
20 the later part, like the 20s.

21 Q. All right.

22 A. I had a wedding --

23 Q. Okay.

24 A. -- to go to.

1 Q. And where was the wedding?

2 A. New York. It was my niece's wedding.

3 Q. When did you make the arrangements to  
4 go to New York?

5 A. There's no arrangements to be made.

6 MR. TEETOR: I'm sorry?

7 A. There's no arrangements to be made.

8 Q. Did you stay in a hotel?

9 A. No.

10 Q. Okay. So did you make -- when was it  
11 that you made your plans to go to New York for the  
12 wedding?

13 A. Probably -- I mean there was no  
14 arrangements to be made. I have a house there.

15 Q. Okay. When is it that you made your  
16 plans to go to the wedding? I mean, you got an  
17 invitation to the wedding, I assume, you said  
18 you're going to come --

19 A. I would say a month in advance. I  
20 don't know.

21 Q. Did you RSVP to the wedding?

22 A. Yes.

23 Q. And you think you RSVP'd about a month  
24 in advance?

1       A.               I don't know. I mean she -- my wife  
2       probably RSVP'd. I don't know when it was RSVP'd.

3       Q.               Did you tell the county commissioners  
4       that you were going to be leaving Hocking County  
5       for that 11-day period of time during the latter  
6       part of July 2014?

7       A.               I did.

8       Q.               And who did you tell?

9       A.               I told them at a public meeting.

10      Q.               What public meeting?

11      A.               A commissioners meeting.

12      Q.               Yes. When?

13      A.               It was latter part of July. It was I  
14      believe two days before I left. I think it might  
15      have been July 17th if I had to remember the date.

16      Q.               So you told them you were going to be  
17      leaving for 11 days?

18      A.               Yes.

19      Q.               Had you made arrangements to have  
20      anybody cover for you when you left town for those  
21      11 days?

22      A.               They didn't pay the last bill and I  
23      went there to complain about them not paying the  
24      last bill for my coverage.



1 Q. Yeah. My question is: Did you make  
2 arrangements for anyone to cover for you during  
3 the 11 days you left Hocking County during the  
4 latter part of July 2014?

5 A. I attempted to get money from the  
6 commissioners to make arrangements. But, no, I  
7 would have had the same arrangement with Jan  
8 Gorniak had they paid the previous bill.

9 Q. Okay. But to make sure we have it  
10 clear on the record, you made no arrangements to  
11 have somebody cover for you during the 11 days  
12 that you were in New York during the latter part  
13 of July 2014; is that correct?

14 A. I attempted but I was unsuccessful.

15 Q. Thank you.

16 Let's take a look -- you're looking at  
17 Exhibit 5, right?

18 A. Yes.

19 Q. Okay. The last sentence on that page  
20 says "I will be sending a letter to law  
21 enforcement offices, EMS, 911 operators, funeral  
22 directors, and the hospital to notify you for  
23 their concerns as well as notifying the public for  
24 the imminent problems ahead." Do you see that?

1 A. Yes, I see.

2 Q. It did I read that correctly?

3 A. Yes.

4 Q. Is that letter that you're referring to  
5 in this sentence that we just read the letter we  
6 read before which is Exhibit 8, Defendant's  
7 Exhibit 8?

8 A. No. It's not the same thing at all.

9 Q. Okay. That's not the letter you're  
10 referring to?

11 A. Well, this is not a letter to me. This  
12 is a letter. This is a -- an -- a little note.

13 Q. Okay. You say in this sentence here, I  
14 will be sending a letter to law enforcement  
15 offices, et cetera?

16 A. Okay.

17 Q. Okay.

18 A. Sure.

19 Q. Now --

20 A. I mean this is the letter then I guess.

21 Q. Okay. So we're -- is the letter that's  
22 Defendant's Exhibit 8 the letter that you're  
23 referring to in that sentence we just read from  
24 Defendant's --

1 A. It's a notification, that, yes.

2 Q. Okay. The sentence after that says "I  
3 predict that your defunding of my employees will  
4 be a costly mistake for the taxpayers of Hocking  
5 County."

6 A. Yes.

7 Q. Do you see that?

8 A. Yes.

9 Q. And what were you referring to there?

10 A. That it was going to be very expensive  
11 to find coverage of physicians of five to one  
12 thousand dollars a day. I think my employees at  
13 12,000 a year were much less expensive. That is  
14 correct.

15 Q. So that was what you were referring to  
16 in that sentence?

17 A. Yeah.

18 Q. You spoke in your first deposition  
19 about an office that you have that was provided to  
20 you by the county commissioners at the Hulls  
21 Building; is that correct?

22 A. No. I think it was referenced as an  
23 office and I said it -- it was a room.

24 Q. Okay.

1       A.           That was unsecured and nonoperational  
2       anything.

3       Q.           Okay.   When I -- I want to know what  
4       you mean by "unsecured."   Are you saying it had no  
5       lock on the door?

6       A.           I'm saying that people had been in and  
7       out of it without my permission.   It was not  
8       locked down and secure; that is correct.

9       Q.           Did your -- did the office or storage  
10      place or whatever you want to call it in the Hulls  
11      Building that was dedicated to the Coroner's  
12      Office, did the door to that room have a lock on  
13      it?

14      A.           It has a lock on it, yes.

15      Q.           All right.   And did you have the  
16      ability to lock it?

17      A.           It is locked, but people still go in  
18      and out of it.   I don't know how they get in there  
19      but there's footprints all over the desk and  
20      everything.

21      Q.           Do you know who else has a key to it?

22      A.           No.

23      Q.           All right.   You have a key to it, I  
24      assume?

1 A. I do. But mine doesn't work anymore.

2 Q. Now, during the year 2013, did you keep  
3 any coroner records in the office or the storage  
4 room in the Hulls Building that was dedicated to  
5 the Coroner's Office?

6 MR. BRUNNER: Objection. He's already  
7 said it's not an office.

8 MR. BARBIERE: That wasn't -- I didn't  
9 say it was an office.

10 Could you read back my question,  
11 please.

12 (The record is read as follows: Now,  
13 during the year 2013, did you keep any coroner  
14 records in the office or the storage room in the  
15 Hulls Building that was dedicated to the Coroner's  
16 Office?)

17 Q. Please answer the question.

18 MR. BRUNNER: Same objection.

19 A. Well, I kept some records in an  
20 offshoot of the area which is a storage area that  
21 actually is owned, "owned" by the clerk of courts.

22 Q. Was that in the Hulls Building?

23 A. Yes.

24 Q. So what records did you keep in 2013 --

1 A. Same records I keep now.

2 Q. -- in the Hulls Building?

3 A. There were older -- there were older  
4 and some newer cases but they were padlocked in a  
5 separate room from the "office" area that was  
6 really not functional.

7 Q. And you said --

8 A. Or secure.

9 Q. And you said those were under the  
10 auspices of the clerk of courts?

11 A. No. They're under my auspices, but the  
12 actual area is owned by the clerk of courts.

13 Q. Was -- is the area where those records  
14 were kept in 2013 part of the area that the  
15 commissioners dedicated to you as coroner?

16 A. I don't think so. I believe at the  
17 time Nancy Starr had -- was not using the space  
18 and she was the clerk of courts and she had asked  
19 me if I could use it and I said yes. And there  
20 had been records stored in there since the '50s.

21 Q. Okay.

22 A. So we continued to add records to that  
23 space and it was padlocked.

24 Q. Do you still have records that are

1 stored in that same place?

2 A. Yes.

3 Q. And tell me what records are stored  
4 there in that padlocked room.

5 A. Cases. Cases.

6 Q. Are these old cases, current cases, can  
7 you --

8 A. Yes.

9 Q. Both?

10 A. Yes, both.

11 Q. Do you have coroner's records kept in  
12 any other location other than under that padlock  
13 in the Hulls Building?

14 A. Yes. Some are in my -- in my physician  
15 office.

16 Q. How do you determine whether the  
17 records are going to be kept in your physician  
18 office or in the padlocked -- under the padlock in  
19 the Hulls Building?

20 A. Well, there's no real determination.  
21 If it's been active -- we get a lot of old  
22 requests for files, and so it's a difficult thing  
23 to drive there and go get the records and find  
24 them and then bring them back. So in general we

1 keep the last several years in my business office,  
2 in my physician office.

3 Q. So the more current coroner's records  
4 for the most part are kept in your physicians  
5 office?

6 A. Correct.

7 Q. And what is the address of your  
8 physicians office?

9 A. 751 A State Route 664 North.

10 Q. And then the other records are kept  
11 under the padlock at the Hulls Building?

12 A. Correct. The inactive files.

13 Q. Is there any other place that you keep  
14 any coroner's records other than those two places?

15 A. No.

16 Q. In your first part of your deposition  
17 you mentioned that Jan Gorniak said that neither  
18 Detective Downs or Chief Valkinburg were permitted  
19 to go to the Franklin County morgue to watch an  
20 autopsy; is that true?

21 A. That is correct.

22 Q. When was it that you had that  
23 conversation with Dr. Gorniak?

24 A. I don't know. But I know that she was



1 the one who told me they couldn't come.

2 Q. Did she call you to give you that  
3 information?

4 A. She did.

5 Q. You don't -- do you remember  
6 approximately when it was?

7 A. No. But I know it -- it had to do with  
8 -- there was difficult -- she thought BCI should  
9 be the only ones doing the cases and she didn't  
10 want them there.

11 Q. She thought BCI should be the only ones  
12 doing what cases?

13 A. Working on whatever case was up there  
14 when she called me.

15 Q. Was this something that she said from  
16 now on I don't ever want them to watch another  
17 autopsy or was it --

18 A. I think --

19 Q. Well, let me finish. Or was it  
20 something related to a specific case?

21 A. I think that she did not want them to  
22 come there because she thought there was  
23 difficulties, and then there was the issue of them  
24 secretly recording and I think that's when she

1       said no more.

2       Q.               Do you remember --

3       A.               Of her -- Dr. Ugwu.

4       Q.               Do you remember what reason she gave  
5       you when you spoke with her for not wanting either  
6       Detective Downs or Chief Valkinburg to go to  
7       Franklin County to watch an autopsy?

8       A.               I believe she said it was her  
9       discretion.

10      Q.              Yeah. I want to know if you were -- if  
11      she gave you a reason. I want to know what you  
12      remember her saying.

13      A.              It was her discretion. She was not  
14      going to have them come.

15      Q.              Okay.

16      A.              That is correct.

17      Q.              Did you give you any other reason other  
18      than in her discretion she did not want them to be  
19      there?

20      A.              No. You can subpoena her, though, and  
21      ask her.

22      Q.              I know we can. What I want to know is  
23      what you can remember of that conversation.

24      A.              That's what I remember.

1 Q. And so --

2 A. She said it's my discretion and they're  
3 not coming.

4 Q. Okay. And that's the only reason she  
5 gave you?

6 A. Yes.

7 Q. Okay. I'd like to ask you to take a  
8 look at Defendant's Exhibit 18, please.

9 Now, this is a letter that appears to  
10 have -- it's a three-page letter dated March 5th,  
11 2012 that appears to have been -- been written  
12 from you to Sheriff Lanny North; is that correct?

13 A. May I read it?

14 Q. Yes. Any time I refer you to an  
15 exhibit, take your time and read it, okay? I want  
16 to make sure you know what we're talking about.

17 Have you had a chance to read  
18 Exhibit 18?

19 A. Yes.

20 Q. All right. I'm not concerned with the  
21 last page of Exhibit 18. But I want to ask you  
22 first --

23 A. Sure.

24 Q. -- is Defendant's Exhibit 18 a true and

1 accurate copy of a letter that you sent to Sheriff  
2 Lanny North on or about March 5th, 2012?

3 A. It is.

4 Q. Did you send this letter to anyone  
5 else?

6 A. No.

7 Q. Have you ever forwarded this letter --  
8 letter or a copy of this letter to anyone other  
9 than Sheriff Lanny North?

10 A. Never.

11 Q. I'd like to talk about the third  
12 paragraph on the first page.

13 A. Yes.

14 Q. You say you were notified of an  
15 incident from 2-8-12 when Mr. Downs went to a  
16 follow-up appointment for a doctor visit in  
17 Lancaster. Do you see that?

18 A. Yes.

19 Q. Who was that doctor?

20 A. I don't know.

21 Q. And started to spout off to a couple in  
22 the waiting room?

23 A. Yes.

24 Q. Do you see that? Who was that couple?

1 A. I don't know.

2 Q. How did you find out about that?

3 A. They came to my office and told me  
4 about it.

5 Q. Okay.

6 A. They're not my patients.

7 Q. Did you get their names?

8 A. No.

9 Q. So you have no idea what their names  
10 are?

11 A. No.

12 Q. And you have no idea who the doctor was  
13 that they were visiting at the time?

14 A. No.

15 Q. And you have no idea --

16 A. I mean I don't know what he was there  
17 for what reason -- I mean, that would narrow it  
18 down, but I have no idea.

19 Q. So all you remember about that -- what  
20 those -- what that couple told you is that it was  
21 a doctor's appointment in Lancaster?

22 A. Yeah, they thought he was insane.

23 Q. Did they tell you he was insane?

24 A. No, they said he was bizarre and that

1 he was erratic and acting strangely. And they  
2 gave me the quotes, I wrote the quotes down, and I  
3 thought I would notify his sheriff.

4 Q. Okay. But you didn't write their names  
5 doctor down?

6 A. No.

7 Q. You didn't write the name of the doctor  
8 down?

9 A. No. I don't know what doctor he saw.

10 MR. GLASGOW: Sorry. Could you --

11 A. I don't know what doctor it was. I  
12 have no idea.

13 MR. GLASGOW: I apologize. I just  
14 didn't hear you.

15 Q. Please take a look at Exhibit 20. Now,  
16 I think you identified Defendant's Exhibit 20 in  
17 the first part of your deposition as being the  
18 protocol that was arrived at with respect to the  
19 Sheriff's Office and the Coroner's Office; is that  
20 correct?

21 A. Amongst others, yes.

22 Q. Okay. Please look at pages 4 and 5,  
23 which are the signature pages.

24 A. Yes.

1 Q. Were you present when these were  
2 signed?

3 A. No.

4 Q. Okay. Your signature is on page 5; is  
5 that correct?

6 A. Yes. Correct.

7 Q. Is that in fact your signature?

8 A. It is.

9 Q. And this protocol was negotiated  
10 between your lawyer and another Attorney Warren  
11 and you signed it and the Judge signed it and  
12 others signed it, as indicated here on this  
13 exhibit; is that correct?

14 A. Yes. I can vouch for my signature,  
15 yes.

16 Q. And you know that it was negotiated  
17 between your lawyers and the Prosecutor's Office  
18 and the Sheriff's Office?

19 A. It was negotiated through my attorney  
20 and David Warren.

21 Q. And you are reviewed it and you signed  
22 it?

23 A. Yes.

24 Q. I'd like to look at 1A first.

1 A. Sure.

2 Q. It says "Any ambulance service,  
3 emergency squad or law enforcement officer will  
4 notify the Coroner of all non-Hospice related  
5 deaths immediately upon arrival."

6 A. Yes.

7 Q. All right. Do you consider yourself to  
8 be a law enforcement officer?

9 A. Yes.

10 Q. Do you have the ability to run OHLEG  
11 reports?

12 A. No.

13 Q. Okay.

14 A. I'm not a peace officer. I am law  
15 enforcement -- I am law enforcement, but I am not  
16 a peace officer.

17 Q. So within the context of this protocol,  
18 you do consider yourself a law enforcement  
19 officer?

20 A. Yes.

21 Q. Well, you indicated that --

22 A. I'm part of law enforcement, maybe not  
23 an officer. I'm not a peace officer, but I am  
24 part of the law enforcement, yes.



1 Q. Well, I guess what my question is: Do  
2 you consider yourself a law enforcement officer?

3 A. No.

4 Q. And so within the context of this  
5 protocol, when they use the term "law enforcement  
6 officer," do you believe that applies to you?

7 A. No.

8 Q. Okay. You indicated that there were  
9 approximately 300 deaths in 2013 in Hocking  
10 County, true?

11 A. Correct.

12 Q. And when they say that your office is  
13 going to get notified about all deaths that are  
14 not hospice related, would that have been the same  
15 as the notification procedure would have been in  
16 2013?

17 A. This is the Ohio Revised Code, yes.

18 Q. How do you determine whether you or  
19 someone else from your office is going to go to  
20 the scene of a death after your office is  
21 notified?

22 A. Typically it's based upon a  
23 conversation of people on scene. Typically, the  
24 EMS because they're usually the most medically

1 well-versed and experienced people on scene, not  
2 law enforcement.

3 Q. When you receive a notification -- let  
4 me back up.

5 When your office receives a  
6 notification of a death, is there a particular  
7 person who normally will notify your office?

8 A. 9-1-1.

9 Q. Okay.

10 A. Because we had not been notified  
11 previously and I wanted that specifically -- I  
12 wanted the law to be followed --

13 Q. So --

14 A. -- and to have notification. So I -- I  
15 specified that it be 9-1-1 because then it would  
16 be logged in and it wouldn't disappear or anything  
17 like that. It would be another agency that can  
18 vouch that the notification did occur -- did  
19 actually occur.

20 Q. So under the protocol, your office was  
21 going to be notified by 9-1-1, the dispatch?

22 A. Correct.

23 Q. Okay. Prior to the protocol, who was  
24 it that notified your office of a death?

1 A. Usually 9-1-1.

2 Q. All right.

3 A. But there were -- there are aberrations  
4 at times.

5 Q. So the protocol was designed so that  
6 9-1-1 would always notify your office of a death?

7 A. Consistently be involved in  
8 notification, correct.

9 Q. Tell me how the process worked then  
10 when your office would make a decision whether to  
11 send somebody to the scene.

12 A. Each scene is different. Each death is  
13 different. We evaluate what's told to us on the  
14 phone and then we decide if we're going to go.

15 Q. Yeah, what I want to know is the  
16 process. In other words, your office is notified  
17 by 9-1-1.

18 A. Yes.

19 Q. Does your office then call somebody or  
20 what happens next in the process?

21 A. Currently, we have a text message alert  
22 that --

23 Q. When did that start?

24 A. Probably in 2015 maybe, early 2015.

1 Q. Let's go back to the time when the  
2 protocol was signed and journalized. What would  
3 have been the process at that time? Your office  
4 is first notified of the death by a 9-1-1  
5 operator.

6 A. We were a group -- we were grouped in  
7 as a text message.

8 Q. Grouped in as a text message from whom?

9 A. So in 2012, 2013, Mike Stephenson, the  
10 subcontracted employee, Mike Downhour and Jamie  
11 Walsh and I would receive the same text message.

12 Q. And the text message would be from the  
13 9-1-1?

14 A. Correct.

15 Q. Okay. Then what did your office do in  
16 response to receiving that text message?

17 A. I called 9-1-1 and then I would get the  
18 information and then I would try to call. And if  
19 I didn't respond within five minutes, 9-1-1 was  
20 notified to call me and if I didn't respond, then  
21 call anybody else on the team. But in general it  
22 was my job to respond, text messages could go back  
23 and forth, is anybody handling this, whatever.  
24 But typically -- and I will respond, I've got it,

1       it's natural, we don't need to go.

2       Q.               So you would personally receive --

3       A.               Absolutely.

4       Q.               Let me --

5       A.               Every one.

6       Q.               You've got to let me finish my  
7       question.

8                       You would personally receive a text  
9       message from 9-1-1 indicating that there had been  
10      a death?

11      A.               Correct.

12      Q.               And then you would text back to 9-1-1  
13      ordinarily and let them know that you had received  
14      your -- their text?

15      A.               98 percent of the time it was my  
16      response.

17      Q.               What was the next step in the process  
18      which would lead you toward making a decision as  
19      to whether or not someone from your office needed  
20      to go to the scene?

21      A.               I would get the contact number of the  
22      scene and then I would call it and I would speak  
23      to the person at the scene.

24      Q.               When you say the contact number of --

1 of the scene, are you talking about a person  
2 related to the decedent?

3 A. A home number of where the person was  
4 deceased or a cell number of the EMS person or a  
5 cell phone number of the Ohio Patrol or the  
6 dispatcher of the Ohio Patrol or whatever.  
7 Somebody who could tell me what was going on.

8 Q. So you could -- you could call anyone  
9 of a number of people then --

10 A. Absolutely.

11 Q. -- after you received that text?

12 A. And I might.

13 Q. So that -- and it could have been the  
14 -- someone at the house, it could have been  
15 someone from EMS, could have been someone from the  
16 Sheriff's Office, somebody from Ohio State Patrol?

17 A. Correct.

18 Q. All right. And you'd talked to them  
19 about the circumstances of the death?

20 A. Yes.

21 Q. What kind of information would you get  
22 from them?

23 A. How old were they, are they -- where  
24 are they? Are they -- do they have medical

1 problems, does it appear natural, does it appear  
2 unnatural. I mean it's -- whatever information I  
3 needed. Whatever path I was being led down on the  
4 conversation.

5 Q. And what kinds of information would  
6 lead you to make a decision that someone should go  
7 to the scene?

8 A. A violent death would be one; overdose  
9 would be another, presumed overdose; things that  
10 were not natural in general.

11 Q. So in general terms --

12 A. Car accidents, we always went to those.

13 Q. So in general terms would it be fair to  
14 say that any time you received information that  
15 the death was not natural, someone from your  
16 office would go to the scene?

17 A. Not always. But if we could, we would.  
18 I mean if we thought it was -- if -- if the scene  
19 itself was going to be helpful, yes.

20 Q. Were there -- were there circumstances  
21 that you would make a decision that even though  
22 the death was unnatural, no one from your office  
23 needed to go to the scene?

24 A. Yes.

1 Q. And what would lead you to make that  
2 decision?

3 A. Every decision is an individual  
4 decision based upon what I'm listening to.

5 Q. Well, why would -- why would there be  
6 times when you would not have someone from your  
7 office respond to the scene of an unnatural death?

8 A. Because the scene may not be helpful.  
9 The decedent may have been moved to the EMS and  
10 died en route. They may have died -- in the ER.  
11 The car accident may have already been -- you  
12 know, the person's already been moved and put on  
13 the -- in a body bag or whatever. Sometimes  
14 people don't always take care of the scene like it  
15 should be. You know, it's -- everything's been  
16 altered, so the point is what's the point of going  
17 to the altered scene.

18 Q. If you made a determination that  
19 someone from your office should go to the scene,  
20 would there be a process by which you would decide  
21 whether it would be you that would go to the scene  
22 or whether one of your investigators would go to  
23 the scene?

24 A. No. I -- I think my two employees and



1 even Mike Stephenson are extremely capable. I  
2 don't -- the sign of a good boss is when you leave  
3 town, nobody misses you.

4 Q. Okay.

5 A. So I expect them to be able to do  
6 everything that I can do, minus the signature.

7 Q. So as far as you were concerned, if  
8 there was a unnatural death that required your  
9 office to attend to the scene, you and your two  
10 investigators would have been interchangeable?

11 A. Yes.

12 Q. Do you -- is it part of your obligation  
13 as coroner to pronounce the cause of death for  
14 every unnatural death that occurs in Hocking  
15 County?

16 A. Every unnatural death has to be signed  
17 by the coroner.

18 Q. In order to do that, do you need to see  
19 the body --

20 A. No.

21 Q. -- of every unnatural death?

22 A. No.

23 Q. And why is that?

24 A. Because there's nowhere that says that

1       you have to see every body that -- it might delay  
2       the -- it might delay the process.

3       Q.               How would you determine the cause of  
4       death if you don't see the body?

5       A.               Because they're usually sent for  
6       autopsy.

7                       MR. TEETOR:   I'm sorry?

8       A.               They're sent for autopsy.   Glenn Swaim,  
9       never saw him.   Jamie Walsh saw him, sent him for  
10      autopsy.

11      Q.               So you can pronounce --

12      A.               It's an example.

13      Q.               -- the cause of death by reading the  
14      autopsy report?

15      A.               I can come up with a ruling of the  
16      cause of death when I put all the information that  
17      is available to me and then I take it for what  
18      it's worth.   The autopsy is just one piece of the  
19      information given to me.   Do I always take the  
20      autopsy report and say it's the cause of death,  
21      no.

22      Q.               In what percentage of the cases do you  
23      pronounce a cause of death without actually seeing  
24      the body?

1 A. Myself or my -- and my staff?

2 Q. Yourself.

3 A. Probably -- currently probably  
4 50 percent.

5 Q. And how many cause of death  
6 pronouncements do you sign each year  
7 approximately?

8 A. 30.

9 Q. 30 to 50?

10 A. No. Less than 50 because we can go to  
11 a scene that could be natural and we could say  
12 we're not taking this.

13 Q. Okay.

14 A. Then we wouldn't make it a public  
15 record. We would rather keep their medical issues  
16 private. So we don't take the case.

17 Q. So approximately --

18 A. 30.

19 Q. -- 30 per year, some of -- you would  
20 sign off on the cause of death?

21 A. Yes.

22 Q. And about 50 percent of those times you  
23 do not actually see the body?

24 A. Correct.

1 Q. Okay. Let's look at the second page of  
2 the protocol, which is Defendant's Exhibit 20.

3 It says "After obtaining a warrant...."  
4 -- this is paragraph 1, I'm sorry.

5 "After obtaining a warrant and the  
6 arrival of crime scene assistants, the Coroner or  
7 his staff along with designated law enforcement  
8 personnel will be permitted to enter the scene  
9 with crime scene assistants and the coroner shall  
10 take charge of the body and the area reasonably  
11 within the control of the body as defined in  
12 Opinion No. 88-035...." et cetera. Did I read  
13 that correctly?

14 A. You did.

15 Q. Tell me the circumstances under which 1  
16 and 1A -- strike that.

17 Tell me the circumstances under which  
18 paragraph 1 applies.

19 A. I would say predominantly homicides.

20 Q. Okay. And is that something that --  
21 you know, when we talk about obtaining a warrant  
22 and the arrival of the crime scene assistants,  
23 et cetera, is that something that happens after  
24 someone from your office arrives at the scene or

1 is it someone who's at the scene, thinks it's a  
2 homicide, they tell you that and then this is  
3 done?

4 A. No. I think it pretty much says that  
5 the coroner or his investigators will look at the  
6 scene and with the lead officer and then decide if  
7 it's a crime scene and then we would wait.

8 Q. And then you get a warrant?

9 A. I don't get warrants, no. The law  
10 enforcement get warrants.

11 Q. Okay. And then after the warrant and  
12 the arrival of the crime scene assistants, then  
13 the coroner or his staff shall take charge of the  
14 body?

15 A. Well, I -- I think the evidence and  
16 everything collected there is also has  
17 jurisdiction with the coroner to some degree.  
18 There's a death.

19 Q. Right.

20 A. The coroner has control of the scene of  
21 a death, and so therefore the law enforcement does  
22 not have any -- by Ohio Revised Code to my  
23 knowledge any authority over the coroner at a  
24 death scene. And so the coroner would not -- we

1 wouldn't move the body or anything until BCI or  
2 whoever has collected all the evidence.

3 Q. What do you mean when you say the  
4 coroner has the jurisdiction over the death scene?

5 A. The coroner is in charge of a death  
6 scene where there's a dead body.

7 Q. When you say death scene, what do you  
8 mean? Do you mean the entire room?

9 A. It's --

10 Q. The entire area?

11 A. Opinion No. 88.035 I believe it says as  
12 large as the coroner says, is that -- isn't that  
13 Anthony Celebrezze's opinion?

14 Q. I'm asking you what you think when you  
15 say that you have the control over the death  
16 scene, what -- how you're using the term "death  
17 scene."

18 A. As big as I would like to make it is  
19 what that opinion is.

20 Q. So in your opinion you have control  
21 over as large an area around a dead body as you  
22 want?

23 A. That is correct.

24 MR. BARBIERE: All right. Why don't we

1 take a five-minute break.

2 MR. BRUNNER: Sure.

3 THE VIDEOGRAPHER: We are off the  
4 record. The time is 3:06.

5 (A short recess is taken.)

6 THE VIDEOGRAPHER: We are back on the  
7 record. The time is 3:20.

8 Q. Dr. Cummin, please take a look at  
9 Defendant's Exhibit 21. And this is a letter to  
10 you from Laina Fetherolf dated January 10th, 2014;  
11 is that correct?

12 A. It appears so.

13 Q. Did you receive this letter?

14 A. Let me read it, if --

15 Q. All right.

16 A. If I may. Okay.

17 Q. Have you had a chance to read  
18 Defendant's Exhibit 21?

19 A. I have.

20 Q. This is a letter to you from Laina  
21 Fetherolf dated January 10th, 2014; is that  
22 correct?

23 A. It is.

24 Q. Did you receive this letter?

1 A. I did.

2 Q. Did you receive this letter on or about  
3 January 10th, 2014?

4 A. I don't know what day I received it.

5 Q. Did it come in the mail or was it an  
6 e-mail?

7 A. I don't know. It could have been  
8 hand-delivered. I don't know.

9 Q. All right. Do you recall if you  
10 responded in writing to this letter?

11 A. I could have.

12 Q. Do you recall if you did or not? I  
13 don't want you to guess.

14 A. I don't recall.

15 Q. In this letter she's referring to  
16 correspondence that you had sent to the  
17 commissioners on January 9th. Do you see that?

18 A. Yes.

19 Q. And that we have talked about that  
20 letter previously --

21 A. Two --

22 Q. -- in your deposition, correct?

23 A. Two letters I believe.

24 Q. Yes.



1                   Those were Exhibit 5 and Exhibit 8 that  
2                   we discussed earlier?

3                   A.               The second one was asking why I didn't  
4                   respond to the first letter, yes.

5                   Q.               Yeah. But those are Exhibits 5 and  
6                   Exhibit 8 that we talked about earlier?

7                   A.               No.

8                   Q.               That's Exhibit 8.

9                   A.               It's not Exhibits 5 and 8, no.

10                  Q.               Take a look at Exhibit 5 if you would.

11                  A.               It is 5. But it's not the second  
12                  letter; that's the first letter.

13                  Q.               Fine.

14                  A.               She's responding to two letters.

15                  Q.               She's talking about two letters, and  
16                  one was Exhibit 5 and one was Exhibit 8, correct?

17                  A.               No. She's responding to this initial  
18                  letter, then there was a second letter, which I  
19                  believe -- I thought there was a second letter  
20                  before -- yes. There's a second letter that she's  
21                  referencing but not 8.

22                  Q.               Okay.

23                  A.               I believe.

24                  Q.               So would --

1 A. This is a -- this is a --

2 Q. Okay. Let's leave those two out.

3 A. Yes.

4 Q. And so it's your belief that Laina  
5 Fetherolf is referencing Defendant's Exhibit 5; is  
6 that correct?

7 A. Yes.

8 Q. And she says at the beginning of the  
9 third paragraph also recall that you signed a  
10 protocol with law enforcement which was filed with  
11 the Court on May 1, 2013 outlining how death  
12 scenes were to be handled. Your current course of  
13 action violates this protocol as well as the Ohio  
14 Revised Code.

15 Do you see that?

16 A. I see it.

17 Q. Did she ever express to you in what way  
18 she believed your actions were violating the  
19 protocol and the Ohio Revised Code?

20 A. No. Because there's nothing in the  
21 protocol that says what she says. The protocol  
22 is --

23 Q. That's not my question.

24 A. -- behavior on the death scene, not how

1 do you notify or how you respond or any of that.

2 None of that's in there.

3 Q. My question to you is: Did Laina  
4 Fetherolf ever explain to you why she believed or  
5 how she believed your conduct was violating the  
6 protocol or the Ohio Revised Code?

7 A. No, not that I recall.

8 Q. Did you realize when she wrote this  
9 letter she was referring to the period of time  
10 when you had just been out of town to go to the  
11 medical conference in Dublin, Ohio?

12 A. What's your question?

13 Q. Did you realize when you received  
14 Defendant's Exhibit 21 that Laina Fetherolf was  
15 referring to the period of time that you had gone  
16 to Dublin, Ohio and left Hocking County?

17 A. I don't think she says that. I think  
18 she's talking about my letters and not that I left  
19 town.

20 Q. Okay.

21 A. She doesn't mention that anywhere in  
22 here I don't believe.

23 Q. No, but your letter said you were  
24 leaving town. And what my question is is did you

1 realize when you read Defendant's Exhibit 21 that  
2 she was referring to you to you leaving town?

3 A. I did not take it that way. I took it  
4 that she was responding to my first two of three  
5 letters to the commissioners not this, Exhibit 8.

6 Q. Okay. But you're not answering my  
7 question.

8 A. I think I did. But, okay, I'll answer  
9 it again.

10 Q. I want to make sure that we're on the  
11 same page. You left town and were gone from  
12 January 9th through 12th, right?

13 A. Yes.

14 Q. And she wrote you this letter, and I'm  
15 asking you if you understood her to mean that you  
16 were violating the protocol by leaving town?

17 A. No. I didn't take it that way at all.

18 Q. You thought she meant you were  
19 violating the protocol by writing the letter?

20 A. No. I didn't know what she was talking  
21 about.

22 Q. Okay.

23 A. She -- I wrote a letter on the 2nd and  
24 I believe the 9th.

1 Q. So my --

2 A. And my --

3 Q. Well --

4 A. And this is her response to my two  
5 letters.

6 Q. Okay.

7 A. That's how I took it.

8 Q. So -- okay. So your answer to my  
9 question is is that you believed she was claiming  
10 that you violated the protocol by writing the two  
11 letters; is that what you're saying?

12 A. I don't know what she's talking about  
13 because the -- apparently she's answering --  
14 instead of the commissioners calling me, they have  
15 directed her to answer my two letters that I wrote  
16 to them.

17 Q. Okay.

18 A. It says "I am in receipt of your two  
19 letters." Right?

20 Q. Are you saying that you don't know what  
21 she's referring to?

22 A. I am telling you that I believe this is  
23 a response to my first two letters to the  
24 commissioners of not having funding to be able to

1 cover the office; that is correct.

2 Q. And rather than being a response to you  
3 leaving town?

4 A. That -- that doesn't mention anything  
5 about leaving town here, no. I don't think so.

6 Q. Let's take a look at Defendant's  
7 Exhibit 22. And that is the complaint for the  
8 writ of mandamus dated January 14, 2014; is that  
9 correct?

10 A. It is.

11 Q. And that was discussed in your first  
12 part of your deposition. And what I wanted to do  
13 is look at the Exhibits, A and Exhibit B, that are  
14 at the end of that.

15 Okay. Exhibit A -- you just had it in  
16 front of you.

17 A. Uh-huh. Yes.

18 Q. Exhibit A is a letter dated January  
19 9th, 2014; is that correct?

20 A. Yes. This is the second letter.

21 Q. Right. And then look at Exhibit B.

22 A. Yes.

23 Q. And that's the letter, Exhibit B,  
24 attached to the complaint for mandamus is the

1 Exhibit 8 from the -- that we discussed  
2 previously, correct?

3 A. It's part of Exhibit 8, yes.

4 Q. All right. And Exhibit A to the  
5 complaint of writ of mandamus is Exhibit 5 --  
6 no --

7 A. It is not. That's why I was trying to  
8 explain to you that the --

9 Q. Okay.

10 A. It's not correct. Your 5 and 8 was  
11 incorrect.

12 Q. Let's go to Defendant's Exhibit 25.

13 A. Yes.

14 Q. Okay. Now, Defendant's Exhibit 25  
15 appears to be a letter dated May 29, 2014 that you  
16 wrote to the commissioners; is that correct?

17 A. It is.

18 Q. And was this, Exhibit 25, actually  
19 delivered to the commissioners?

20 A. It was in person.

21 Q. You handed it to them?

22 A. Yes. Three copies for each one of  
23 them.

24 Q. And did you --

1       A.           With this agreement which I'd already  
2       discussed.

3       Q.           Under --

4       A.           Correct?

5       Q.           Under what circumstances did you hand  
6       this to them?

7       A.           At a public meeting.

8       Q.           Okay. And did you then discuss with  
9       them what this proposal was in addition to handing  
10      them the letter?

11      A.           Yes.

12      Q.           Okay. I want to make sure I understand  
13      what your proposal means. So let's look at the  
14      second paragraph which is in the middle of the  
15      letter which is Defendant's Exhibit 25.

16                   You say, "The Hocking County  
17      commissioner agreed to pay \$500 per day to the  
18      Covering Physician for coverage and \$1,000 for any  
19      call out to a suspicious or non-natural death,  
20      including suicide, accident or homicide." Did I  
21      read that correctly?

22      A.           You did.

23      Q.           All right. Is it your proposal that  
24      when you're out of town the covering physician



1 would be paid \$500 per day for each day you're out  
2 of town and that they're covering for you?

3 A. Yes.

4 Q. In addition to that, are they to be  
5 paid \$1,000 for any time they have to go to the  
6 scene of a suspicious or nonnatural death?

7 A. Yes.

8 Q. All right.

9 A. Because they would leave their office.

10 Q. Okay.

11 A. And they would lose 2,500 to 3,000  
12 bucks a day.

13 Q. So for example to make sure we're  
14 clear --

15 A. It's expensive. That's why I wanted to  
16 keep my employees.

17 Q. All right. So to make sure I'm clear  
18 on what your proposal was, if you left town for  
19 five days and you retained a physician to cover  
20 for you, just for covering you for those five  
21 days, even if they were not called to the scene,  
22 they would get \$500 per day or \$2,500; is that  
23 fair?

24 A. Yes.

1 Q. If they had to get two callouts during  
2 that period of time, they would get the \$2,500  
3 plus two additional \$1,000?

4 A. They would.

5 Q. 2,500 plus two additional --

6 A. That's right. You're asking them to be  
7 on call 24 hours a day, take phone calls  
8 throughout the night and then you want them to  
9 leave their office, cancel 15 patients and not get  
10 paid for it? I mean let's -- that's -- you guys  
11 get paid a lot more than that.

12 Q. Okay. I wanted to make sure I  
13 understood what your proposal was.

14 A. Yes. It's very factual.

15 Q. \$500 per day regardless of whether  
16 they're called out. And if the covering physician  
17 is called out, they get an additional \$1,000 for  
18 each callout?

19 A. That is correct.

20 Q. And you presented page 2 also to the  
21 county commissioners at that meeting on May 29th,  
22 2014?

23 A. I did.

24 Q. Did the commissioners say anything to

1       you on May 29th, 2014 regarding whether they were  
2       going to accept or reject your proposal?

3       A.               No, I don't believe so.

4       Q.               Let's look at Exhibit 25B.

5       A.               Yes.

6       Q.               Did you receive Exhibit 25B?

7       A.               I did.

8       Q.               And that's a letter written to you  
9       dated June 3rd, 2014 from the commissioners; is  
10      that correct?

11      A.               Five days after the meeting, that is  
12      correct.

13      Q.               And did you -- do you recall that you  
14      received Exhibit 25B approximately five days after  
15      the meeting?

16      A.               No. I believe it was mailed. It came  
17      through U.S. Mail. So I would say probably June  
18      5th.

19      Q.               This letter --

20      A.               Logan -- Logan mail goes to Columbus  
21      and then comes back to Logan.

22      Q.               Okay.

23      A.               It's two days.

24      Q.               So this letter is rejecting your

1       proposal; is that correct?

2       A.               Yes.

3       Q.               So you knew that as of the time you  
4       received Defendant's Exhibit 25B that the county  
5       commissioners were rejecting your proposal for the  
6       covering physician?

7       A.               Yes.

8       Q.               All right.

9       A.               Unless I could get a favor from  
10      someone. You know, cover me for free or whatever.  
11      Do you see that? Favor. They wanted me to ask  
12      for favors to cover for free.

13      Q.               Well, they also say "Have you contacted  
14      a local physician for a call out basis? These are  
15      all alternatives we would like you to look into."  
16      Did you then look into these other alternatives  
17      they discussed in Exhibit 25B?

18      A.               I had prior when I presented them with  
19      the prior proposal.

20      Q.               Okay. After you received Exhibit 25B,  
21      did you do anything further to try to follow-up  
22      with any of the suggestions that were made in this  
23      letter?

24      A.               Do you mean asking for favors from

1 other --

2 Q. Any other suggestions?

3 A. -- county coroners? No, I did not do  
4 that.

5 Q. Okay.

6 A. Did I --

7 Q. Well --

8 A. -- come up with Jan Gorniak's plan to  
9 cover me for eight days at \$500 a day which was a  
10 lot more reasonable than that, yes, I did.

11 Q. All right. The only plan --

12 A. They still didn't pay that either.

13 Q. Okay. Let me -- let me ask you this:  
14 So the only plan that you addressed or that you  
15 looked into after receiving this June 3rd, 2014  
16 letter was the proposal that you made to Jan  
17 Gorniak about covering you for eight days and \$500  
18 per day?

19 A. No.

20 Q. What other proposals did you make?

21 A. We called Ed Breining. I think I  
22 already discussed this the first time around. We  
23 called Ed Breining who was the investigator -- one  
24 of the investigators of Fairfield County, and he

1 makes over 41,000 a year as an investigator. And  
2 then I think there was a discussion of that's a  
3 much larger county in the first deposition and --

4 Q. But did you call to him --

5 A. Yes.

6 Q. -- after you received this Exhibit 25B?

7 A. I believe so.

8 Q. Okay. So you called Ed Breining  
9 sometime after June 3rd, 2014?

10 A. I believe so.

11 Q. All right. What other efforts did you  
12 make after you received Exhibit 25B to try to get  
13 some coverage?

14 A. We -- I had talked to Jan Gorniak, I  
15 had talked to people, other coroners and asked  
16 them what they suggested and they all kind of  
17 shrugged their shoulders, and then Jan Gorniak  
18 said she'd do it for 500 bucks a day.

19 Q. And so when you left --

20 A. And if I ever needed help, that I could  
21 call her and she was always there for me.

22 Q. And when you left in June of 2014 and  
23 you went to Aruba, you had John -- Jan Gorniak  
24 cover for you; is that correct?

1 A. I did.

2 Q. And the arrangement was that you were  
3 going to pay her \$500 per day?

4 A. Yes.

5 Q. When you left the two times in July,  
6 there was no physician covering for you; is that  
7 correct?

8 A. I didn't need coverage the second time  
9 because I was in the United States and I was able  
10 to --

11 MR. TEETOR: I'm sorry. I can't hear  
12 you.

13 A. I didn't need coverage in July, the  
14 second half of July. Aruba, I didn't have cell  
15 phone coverage. I needed coverage.

16 Q. Okay. Let me --

17 A. In Jamaica, I did haven't cell phone  
18 coverage. I needed coverage. When I was in  
19 New York, I handled a homicide over the phone no  
20 problem.

21 Q. Let me ask you -- please answer my  
22 question. You were gone from July 3rd to July 6th  
23 of 2014; is that correct?

24 A. Yes.

1 Q. Did you have someone covering for you  
2 as coroner during that period of time?

3 A. Yes. When is it?

4 Q. July 3rd through July 6th.

5 A. No.

6 Q. Okay. When you were gone for 11 days  
7 later in July, did you have someone covering for  
8 you at that time?

9 A. I covered myself.

10 Q. Okay. No one else was covering for you  
11 during that time?

12 A. No. I mean my -- no. I didn't have  
13 anybody covering. It was just me.

14 MR. TEETOR: Sorry. I couldn't hear  
15 you.

16 A. It was just me. I didn't have any  
17 employees.

18 Q. Please take a look at Defendant's  
19 Exhibit 30. Exhibit -- Defendant's Exhibit 30 is  
20 a letter dated July 17th, 2014 written to you and  
21 it's from Lanny North; is that correct?

22 A. It is.

23 Q. Did you receive this?

24 A. I did.



1 Q. Did you respond to this letter?

2 A. No.

3 Q. In no -- either orally nor in writing?

4 A. No.

5 Q. Did you tell Sheriff North whether you  
6 were willing to agree to his proposal or his  
7 potential solution?

8 A. No. He doesn't control how my office  
9 operates.

10 Q. Okay.

11 A. No.

12 Q. So you didn't respond to him one way or  
13 the other?

14 A. No. I thought it was completely  
15 incorrect based upon the laws and based upon how  
16 Hocking County was run.

17 - - - - -

18 Thereupon, Defendant's Exhibit 34 is  
19 marked for purposes of identification.

20 - - - - -

21 Q. I'm going to hand you what's been  
22 marked for identification as Defendant's  
23 Exhibit 34. And I'm going to ask you first to  
24 please take a look at Defendant's Exhibit 34.

1 A. Okay.

2 Q. I'll represent to you that Exhibit 34  
3 was produced to us by your attorney. You can see  
4 it's got the Bates stamp on the back -- on the  
5 bottom. Have you seen this e-mail before?

6 A. No.

7 Q. This is something you've never seen  
8 before?

9 A. Never seen it.

10 Q. Okay. It appears to be an e-mail from  
11 Dewayne Jones dated February 22nd, 2012; is that  
12 correct?

13 A. Yes.

14 Q. Did you ever speak with Dewayne --

15 A. If it was more than a sentence or two,  
16 I don't know when.

17 Q. Okay. Well, let's look at the first  
18 page of this. It says "This email is going to  
19 reference some of the many comments that Dave  
20 Cummins 'coroner of Hocking County' has made to me  
21 Dewayne Jones (brother...of Glenn Swaim). Dave on  
22 more than one occasion has degraded the Hocking  
23 County Sheriff's office stating that they are  
24 incompetent and that if we needed answers to

1 questions to ask him, not to even bother with Ed  
2 Downs." Did you make that -- a statement of that  
3 nature to Dewayne Jones?

4 A. I don't ever remember speaking more  
5 than one sentence to Dewayne Jones, so I would  
6 call this completely false.

7 Q. Okay. So it's your testimony that  
8 everything in Defendant's Exhibit 34 is completely  
9 false?

10 A. Yes.

11 Q. And that Dewayne Jones is lying?

12 A. Yes.

13 Q. Okay. I'm going to hand you what's  
14 been marked as Defendant's Exhibit 35, which is  
15 entitled a Motion For Assessment of Attorney Fees.  
16 And I am going to ask you some questions about  
17 this document. If you want to take a look at it,  
18 just let me know when you are ready to answer.

19 - - - - -

20 Thereupon, Defendant's Exhibit 35 is  
21 marked for purposes of identification.

22 - - - - -

23 A. Okay.

24 Q. Have you seen this document before?

1 A. I have.

2 Q. I'm going to refer you to the  
3 memorandum in support and beginning with on August  
4 18th, 2012 Investigator -- Investigator Scholl and  
5 I, which is David -- C. David Warren "met  
6 Dr. Cummin at his office in Logan to view the  
7 autopsy photos of Glenn Swaim."

8 A. That was not the specific reason they  
9 came. But he can say that that's why he came.

10 Q. Okay.

11 A. My understanding was to meet to get  
12 caught up on things.

13 Q. He next says "Dr. Cummin began being,  
14 let's say, less than cordial stating that he had  
15 no idea why we were there. I explained to him  
16 that we had agreed upon this meeting to view the  
17 autopsy photos and reminded him that he required  
18 us to bring a laptop computer which we did. He  
19 then had to call his home to have his Swaim  
20 investigation file delivered to his office." Are  
21 those statements accurate?

22 A. No.

23 Q. That -- that's not true?

24 A. No.

1 Q. Is he lying there?

2 A. Yes.

3 Q. The next sentence says "A few minutes  
4 later after the file arrived he reached into the  
5 file and pulled out an envelope containing a  
6 compact disc saying 'There's the F---ing pictures,  
7 take the file, I'm done.'" Is that true? Did  
8 that happen?

9 A. Not in that particular order. I think  
10 that was near the end when he was asking me to lie  
11 to the public.

12 Q. Okay. So you say that C. David Warren  
13 asked you to lie to the public?

14 A. Yes.

15 Q. While --

16 A. He did.

17 Q. "While explaining to Dr. Cummin that I  
18 cannot have possession of the file for public  
19 record reasons my investigator down loaded the CD  
20 only to discover that the only information on the  
21 disc were two pictures of the residence where  
22 Swaim was found unconscious and no autopsy  
23 photos." Is that a true statement?

24 A. Yes.

1 Q. "Dr. Cummin then stated 'well I must  
2 not have any autopsy photos'. After some more  
3 profane laced language about how he did not have  
4 to cooperate with the Sheriff's office and that we  
5 were wasting his time, Dr. Cummin got up and left,  
6 shouting as he drove out of the parking lot at the  
7 top of his lungs 'TRUTH AND JUSTICE GENTLEMEN,  
8 TRUTH AND JUSTICE.'" Is that true what he wrote  
9 there? What I just read to you?

10 A. He seems to be quite confused on the  
11 sequence of events. I would say that is a  
12 complete inaccurate sequence. He seems to have  
13 confused the first 30 minutes of niceties with the  
14 last 10 minutes of problems. I would say he is  
15 confused.

16 Q. All right. So you're saying that --

17 A. On his sequence of events. And he  
18 seems to put what happened 40 minutes into the  
19 meeting into the fifth minute and the fifth minute  
20 into the 20th minute. He's not very chronological  
21 with his statements.

22 Q. Are you saying that he's lying or he's  
23 just confused with respect to the statements that  
24 I just read to you?

1 A. That specific statement could be  
2 confusion. The -- some are lies, some are true.

3 Q. Okay. So reading through this stuff --

4 A. Each sentence has to be evaluated for  
5 its content because he's completely off base.

6 Q. All right. So with respect to this  
7 Defendant's Exhibit 35, I want to try to break  
8 this down. It's your testimony that in  
9 Defendant's Exhibit 35 C. David Warren is totally  
10 off base. I think is what you just said; is that  
11 true?

12 A. Yes.

13 Q. And I think you said that some of the  
14 statements that he made in this pleading are just  
15 out-and-out lies; is that correct?

16 A. Yes. Uh-huh. Right.

17 Q. And some -- some of the statements that  
18 he made in this pleading are inaccurate, but you  
19 allow that they may just be a result of his  
20 confusion?

21 A. Of his chronological confusion, yes.

22 Q. Okay. I'd like to have you take a look  
23 at Defendant's Exhibit 36.

24 - - - - -

1                   Thereupon, Defendant's Exhibit 36 is  
2                   marked for purposes of identification.

3                   - - - - -

4                   Q.               Partial -- these are your Responses to  
5                   Defendants First Set of Interrogatories, Request  
6                   For Admissions and Request For Production of  
7                   Documents. And in the first part of your  
8                   deposition a partial response was made an exhibit.  
9                   This is the entire, the entirety.

10                   I'm going to ask you just a couple of  
11                   questions, some specific questions. If you want  
12                   to read the whole thing now, you can; otherwise,  
13                   we'll just go to the questions I have with it.

14                   Please take a look at page 3, question  
15                   8 and the answer. Tell me when you've had a  
16                   chance to read that, please.

17                   A.               No. 8?

18                   Q.               Yes.

19                   A.               Okay.

20                   Q.               The question is: "Pursuant to Rule 34,  
21                   Federal Rules of Civil Procedure, please produce  
22                   any and all documentation of any type whatsoever  
23                   related to, concerning, or documenting anything  
24                   about Edwin Downs during the period of time



1 extending from January 1, 2012 through the date of  
2 your response to this discovery request."

3 Your answer is: "See thumb drive of  
4 documents produced by Jeremy Dye in response to  
5 the subpoena issued to him, previously provided to  
6 all counsel. No other documents have been clearly  
7 identified at this time and discovery is ongoing."  
8 Is that -- did I correctly read your answer?

9 A. You did.

10 Q. Now, my point here is to make  
11 absolutely sure that the thumb drive of documents  
12 produced by Jeremy Dye that you're referring to  
13 there are the only documents of any kind as  
14 defined here in this pleading that you have  
15 relating to Edwin Downs extending from January 1,  
16 2012 through the date that you answered these  
17 responses.

18 A. It's true. I don't -- I didn't have  
19 the one letter that I wrote to Lanny North because  
20 I didn't have that hard drive anymore. So I did  
21 not -- did not have that letter that you were  
22 worried that I had sent other people that I never  
23 had. But --

24 Q. Do you mean the letter that I referred

1 to as an exhibit --

2 A. Yes.

3 Q. -- or some other letter?

4 A. Yes.

5 Q. Okay.

6 A. The one -- but those kind of things I  
7 gave you what I had.

8 Q. All right. So --

9 A. But I didn't have that letter on Ed  
10 Downs anymore.

11 Q. You have nothing else about Edwin Downs  
12 other than what you've already responded to in  
13 discovery?

14 A. Correct.

15 Q. Okay. Please take a look on page 6 at  
16 question 16.

17 A. Yes.

18 Q. Is -- now, No. 16 says "Pursuant to  
19 Rule 34, Federal Rules of Civil Procedure, please  
20 produce any and all documentation of any type  
21 whatsoever related to or concerning any  
22 communications by and between"...(i) "you  
23 and"...(ii) "any employee or representative of the  
24 City of Logan Police Department from January 1,

1       2012 through the date of your response to this  
2       discovery request, which refers to or concerns in  
3       any way any Plaintiff, or the Hocking County  
4       Coroner's office and/or the Hocking County  
5       Sheriff's Office and/or the Hocking County  
6       Prosecuting Attorney." And your answer was  
7       "None."

8                   As you sit here today, is that a true  
9       and accurate answer up to today?

10       A.           I believe we've supplied everything  
11       that I had.

12       Q.           Well you -- the answer you said here is  
13       none. And --

14       A.           No additional to whatever's been  
15       supplied. The letters or whatever we had we gave  
16       to you. There's nothing outstanding.

17       Q.           Right. But I think what you said here  
18       and this refers to communications with the City of  
19       Logan Police Department.

20       A.           Right. I don't have any communication  
21       with them.

22       Q.           That's what I want to make sure we --  
23       we're clear.

24       A.           None.

1 Q. So you have no communications?

2 A. None. Zero.

3 Q. Okay. So the answer to 16 that's here  
4 now is "None." As you sit here today, that's  
5 true?

6 A. It is.

7 Q. All right. Let's look at 17.  
8 "Pursuant to Rule 34, Federal Rules of Civil  
9 Procedure, please produce any and all  
10 documentation of any type whatsoever related to or  
11 concerning any communications by and  
12 between"...(i) "you and"...(ii) "any employee or  
13 representative of the Hocking County"  
14 Prosecutor's..."office from January 1, 2012  
15 through the date of your response to this  
16 discovery request, which refers to or concerns in  
17 any way any Plaintiff, or the Hocking County  
18 Coroner's office and/or the Hocking County  
19 Sheriff's Office and/or the Hocking County  
20 Prosecuting Attorney." Your answer to that was  
21 "None." Is that still your answer as you sit here  
22 today?

23 A. It is. If it's referencing  
24 communication between what I've already supplied,

1       there's no additional communication.

2       Q.               Yeah. But that's not what this answer  
3       says, that's why I want to make sure I understand.  
4       You're saying --

5       A.               I'm not sure I totally understand the  
6       question.

7       Q.               Okay.

8       A.               I mean it wants -- it's kind of a long  
9       -- it wants to know if I have any communications.  
10      Yes, I sent some text messages from David  
11      Valkinburg. I sent -- I don't think I had  
12      anything from Ed Downs. I don't think I had much  
13      from Lanny North except for an e-mail of whatever  
14      he sent about the murder, the -- they called it a  
15      -- I can't remember what they called it, about  
16      issuing the moneys to be guaranteed. There's some  
17      letters to the prosecutor that -- I mean, that's  
18      all been supplied. So my answer is none beyond  
19      what I've already supplied.

20      Q.               All right. So the answer is not none.  
21      The answer that you would say as you sit here  
22      today to No. 17 is --

23      A.               Already supplied.

24      Q.               -- none other than what I have already

1       supplied?

2       A.               Correct.

3       Q.               Okay.   Let's go to the next page.

4       Let's look at No. 19.   It says "Pursuant to Rule  
5       34, Federal Rules of Civil Procedure, please  
6       produce any and all documentation of any type  
7       whatsoever related to, concerning, evidencing, or  
8       constituting any recordings made of any Defendant  
9       without his or her knowledge, including but not  
10      limited to any audio recordings, any transcripts  
11      of the same."   And your answer is "None."   Is that  
12      still your answer as you sit here today?

13      A.               My answer is I don't have anything like  
14      that.

15      Q.               Okay.

16      A.               If anybody else does, I don't have it.

17      Q.               The question is:   Do you have it?

18      A.               I don't have it.

19                      MR. BRUNNER:   Objection.   Asked and  
20      answered.

21      A.               I don't have any.

22      Q.               So as you sit here today, you're saying  
23      that you have no recordings of any defendant  
24      without his or her knowledge?

1 A. Correct.

2 Q. And you have no transcripts of any  
3 recordings?

4 A. No.

5 Q. Of any defendant?

6 A. No.

7 Q. Okay. Does your attorney have any such  
8 recordings?

9 A. I don't know. You'll have to ask him.  
10 I mean he's -- apparently he's had things that I  
11 didn't have. I don't know --

12 Q. I'm not asking --

13 A. -- what he has.

14 Q. If you don't know, you can just say I  
15 don't know.

16 A. I don't know. I think I did say that.

17 Q. Take a look at 20. It says "Pursuant  
18 to Rule 34, Federal Rules of Civil Procedure,  
19 please produce any and all documentation of any  
20 type whatsoever related to providing or sharing or  
21 communicating any recording or transcript of any  
22 recording made of any Defendant without his or her  
23 knowledge to any person or organization  
24 whatsoever." Your answer is "None." Is that

1 still your answer as you sit here today?

2 A. Yes.

3 Q. Let's take a look at 22. It says "Do  
4 you admit that prior to July 2014 on more than one  
5 occasion you authorized an autopsy when there was  
6 not sufficient monies in the lab and morgue  
7 account to cover the cost of the autopsy?" Your  
8 answer on the next page is, "Yes in part." What  
9 do you mean "Yes in part"? And if you want to  
10 read 22(a), you can. But I just want to make sure  
11 I understand completely what you mean by "Yes in  
12 part" with respect to 22.

13 A. I believe actually 22(a) is a good  
14 answer. Yes, if we needed extra money, we went to  
15 the commissioners. But once they stopped paying  
16 for employees and then they wouldn't pay for  
17 coverage, then -- and then I had writ of mandamus  
18 and I had -- you know, I had to do everything by  
19 the book. And by the book is if I don't have the  
20 money, then we're going to have to wait until I  
21 have the money so I don't get in trouble with the  
22 law.

23 Q. Is it your testimony that every time  
24 prior to July 2014 that you authorized an autopsy



1       when there was not sufficient moneys in the lab  
2       and morgue account to cover the cost that you went  
3       ahead and authorized it?

4       A.               No.   What's your question?

5       Q.               Yeah.

6       A.               Did I authorize it without the money?

7       Q.               When --

8       A.               No.   We tried to get the money first.

9       Q.               When was -- when was the first time  
10      that you ever did not authorize an autopsy because  
11      there was not enough money in the account?

12      A.               I'm unaware of when -- if that's  
13      occurred or not.

14      Q.               Okay.   Did that occur on July 19th of  
15      2014?

16      A.               Did I authorize an autopsy without --

17      Q.               Did you refuse to authorize an autopsy  
18      because you did not have enough money in your  
19      account?

20      A.               No, I didn't refuse to authorize it.   I  
21      delayed it until the money was in the account.

22      Q.               All right.

23      A.               I didn't refuse to do one.

24      Q.               Was there ever -- well -- you never do

1 autopsies, do you?

2 A. No.

3 Q. I'm asking you if you refused on July  
4 19th, 2014 to authorize the autopsy that day?

5 A. No.

6 Q. You didn't refuse?

7 A. No, I didn't refuse it.

8 Q. Okay. What's your position on that?  
9 You're saying you just delayed it?

10 A. Yeah.

11 Q. So you refused the authorize it on that  
12 day, though?

13 A. No. I didn't refuse anything. He --  
14 when I -- even though I had the money, the body  
15 was taken to the morgue. Lanny North had zip-tied  
16 the bag, preserved the evidence, the body was  
17 taken to the morgue. The following day I called  
18 Ed Downs and David Valkinburg and I got the  
19 information so they could send the decedent up to  
20 Franklin County. But it would have still been  
21 done the same way.

22 Q. So --

23 A. So I don't --

24 Q. So it's your testimony that on July

1 19th, 2014 you did not tell John Walker that you  
2 were going to refuse to authorize the autopsy  
3 unless you had sufficient money in your account?

4 A. That is -- I did not say that to him,  
5 period.

6 Q. All right.

7 A. That's false.

8 Q. Was there ever a time prior to July  
9 19th, 2014 that you refused to authorize an  
10 autopsy because there was insufficient money in  
11 the coroner's office?

12 A. Not that I'm aware of. I'm not aware  
13 of not having enough money to do it.

14 Q. Was there ever a time -- that's not my  
15 question.

16 Was there ever a time prior to July  
17 19th, 2014 when you refused to authorization an  
18 autopsy on the basis that there wasn't enough  
19 money in the account?

20 A. No.

21 Q. Let's take a look on page 20 at No. 63.  
22 The question is: "Set forth copies of any  
23 documents the Plaintiff expects or intends to  
24 introduce at hearing which have not already been

1 identified." And the answer says "3 cases of  
2 hindrance of duties...." What do you mean by "3  
3 cases of hindrance of duties"?

4 A. There were three deaths in which we  
5 were refused access to the scene by -- once by  
6 Lanny North and once by David Valkinburg, and I  
7 don't know who the third one was. In which the  
8 coroner or the coroner investigators went to the  
9 death scene and the sheriff's department would not  
10 let them in and my two investigators were actually  
11 threatened with being placed in jail if they went  
12 inside the house.

13 Q. So --

14 A. Two of these deaths were natural deaths  
15 and one was an accidental overdose, none of which  
16 the sheriff department has any jurisdiction  
17 whatsoever and it happened three times in six  
18 weeks and --

19 Q. So -- so what were those three deaths  
20 that you're referring to there?

21 A. They are files that he has. I don't  
22 know specifically the names of the people off the  
23 top of my head, but we have supplied them to my  
24 attorney.

1 Q. So you're saying that documents that  
2 you're going to produce at trial include three  
3 cases of hindrance of duties and those are the  
4 three cases that you just described?

5 A. Correct.

6 Q. Now, you said it all happened within  
7 six weeks?

8 A. I believe so.

9 Q. During what six-week period did this  
10 happen?

11 A. It was the summer of -- I don't know  
12 what year. I don't know what year it was, but I  
13 remember it was the summer because I remember my  
14 employees sat outside for three hours without  
15 access to the scene and it was very hot that day.

16 Q. So you --

17 A. So I told them to leave.

18 Q. So you don't remember the names of any  
19 of the three decedents?

20 A. I believe he has the files.

21 Q. I'm asking you do you remember the  
22 names of any --

23 A. I think one's Donahoe, the other two I  
24 don't remember off the top of my head.

1 Q. How do you spell Hoe?

2 A. I think it's D-O-N-A-H-O-E.

3 Q. Okay. So you remember Donahoe as being  
4 one of the decedents --

5 A. Possibly. I'm not guaranteeing --

6 Q. Wait until I finish. Wait until I  
7 finish.

8 You remember Donahoe as being one of  
9 the decedents you're referring to in the three  
10 cases of hindrance of duties in response to  
11 No. 63?

12 A. I'm guessing the name.

13 Q. Okay. Do you know the names of any of  
14 the other people, either of the other people that  
15 you're claiming were cases of hindrance of duties?

16 A. Not off the top of my head.

17 Q. And you say that those three cases  
18 occurred within a six- to eight-week period of  
19 time sometime in the summer?

20 A. Yes.

21 Q. Do you know if that happened in 2014 --

22 A. No.

23 Q. -- 2013 or 2012?

24 A. No. I mean the file would tell you.

1 They're all the same year.

2 Q. Okay. My question was: Do you  
3 remember if it was the year 2012, the year 2013 or  
4 the year 2014?

5 A. No.

6 MR. BRUNNER: Objection. Asked and  
7 answered.

8 A. Not off the top of my head.

9 MR. BRUNNER: Go ahead.

10 MR. BARBIERE: Well, his answer was  
11 "the file would tell you."

12 MR. BRUNNER: He said no.

13 A. Not off the top of my head, no.

14 Q. Is that your entire answer to No. 63?

15 A. "Set forth copies of any documents the  
16 Plaintiff expects or intends to introduce at a  
17 hearing...." yes.

18 Q. I'm going to hand you what's been  
19 marked for purposes of identification as  
20 Defendant's Exhibit 37.

21 - - - - -

22 Thereupon, Defendant's Exhibit 37 is  
23 marked for purposes of identification.

24 - - - - -

1 Q. And don't go to -- don't leave the  
2 prior document yet.

3 On Exhibit 36 if you look at the very  
4 last page, which is 22, there is no signature on  
5 that page under oath verifying these responses.  
6 Do you notice that?

7 A. I do.

8 Q. Do you recognize Exhibit 37 as being  
9 the verification page where you signed saying that  
10 those responses to discovery that we just  
11 discussed are true and accurate to the best of  
12 your knowledge?

13 A. Yes.

14 Q. Excuse me.

15 Did you have any input into the  
16 termination of Dr. Ugwu?

17 A. No.

18 Q. Did you have any kind of conversation  
19 with Dr. Gorniak regarding why Dr. Ugwu was  
20 terminated?

21 A. Yes.

22 Q. And what was the conversation that you  
23 had with her? What did she tell you?

24 A. She told me that he couldn't pass his



1 boards and that he had a certain period of time to  
2 do that.

3 MR. LAMBERT: Excuse me.

4 A. He did not pass his boards, had taken  
5 them multiple times, and therefore legally he  
6 could not be certified and therefore not able to  
7 perform autopsies as a forensic pathologist. He  
8 would have to retake his residency in fact, I  
9 believe, and not just take the boards again.

10 Q. Is that --

11 A. So she had to dismiss him.

12 Q. Is that the only reason that  
13 Dr. Gorniak gave you that he was terminated?

14 A. Yes.

15 MR. BARBIERE: Anything else? I think  
16 those are all the questions I have at this time.  
17 Thank you. Do you want to take five minutes so we  
18 can change places or are you okay?

19 MR. TEETOR: I'm all right from here.

20 THE WITNESS: I would like five  
21 minutes.

22 MR. TEETOR: You want a break? Sure.

23 THE VIDEOGRAPHER: We are off the  
24 record. The time is 4:07.

1 (A short recess is taken.)

2 THE VIDEOGRAPHER: This marks the  
3 beginning of disk No. 2. We are back on the  
4 record. The time is 4:22.

5 - - - - -

6 CROSS-EXAMINATION

7 BY MR. TEETOR:

8 Q. Sir, when the criminal charges were  
9 filed against you, were they served on you with a  
10 summons?

11 A. I don't know exactly what you mean by  
12 that, but I know that I was charged when I was out  
13 of town.

14 Q. Okay. Well, did the -- were the  
15 documents that were served on you with respect to  
16 these charges, did they require you to appear in  
17 court?

18 A. Yes.

19 Q. And were you ever arrested?

20 A. No.

21 Q. Never handcuffed or taken to jail or  
22 anything like that, correct?

23 A. No.

24 Q. Correct?

1 A. No. I was not handcuffed.

2 Q. Okay.

3 A. Or taken to jail.

4 Q. And you were never taken into custody  
5 by anyone at the Sheriff's Office, true?

6 A. That is correct. I was never taken  
7 into custody.

8 Q. And you were detained by anybody from  
9 the Sheriff's Office, correct?

10 A. Correct.

11 Q. And when you went to court, you were  
12 given a \$1,500 recognizance bond at the  
13 arraignment?

14 A. I don't remember. I didn't pay  
15 anything.

16 Q. Didn't have to pay any money?

17 A. No.

18 Q. They let -- you went to the arraignment  
19 and they let you go home?

20 A. Yes.

21 Q. Is it your understanding that Special  
22 Prosecutor Stanley was appointed to be the  
23 prosecutor for those charges?

24 A. Yes.

1 Q. Have you ever read his deposition?

2 A. Yes, a long time ago.

3 Q. Do you know if Special Prosecutor  
4 Stanley ever determined that probable cause  
5 existed for those charges?

6 A. I know he dismissed for four and he had  
7 an e-mail to Laina Fetherolf on the fifth that  
8 said that it probably wasn't going to fly if John  
9 Walker took the stand. So I would say he knew all  
10 five were bogus.

11 Q. Wasn't my question.

12 A. That was --

13 Q. In reading his deposition, did you ever  
14 observe that he testified that he believed that  
15 probable cause existed for those charges?

16 A. I don't remember. It's been a long  
17 time since I've read it.

18 Q. It was Special Prosecutor Stanley who  
19 tried the criminal charges?

20 A. Yes.

21 Q. Prior to the filing of those criminal  
22 charges, had you ever met or known of Special  
23 Prosecutor Stanley?

24 A. No.

1 Q. Ever had any contact with him?

2 A. No.

3 Q. Have you ever claimed that Special  
4 Prosecutor Stanley had a malicious reason or an  
5 ulterior motive to prosecute you?

6 A. No.

7 Q. Did you or to your knowledge your  
8 lawyer ever ask that he be removed as the special  
9 prosecutor?

10 A. No.

11 Q. Who was your lawyer?

12 A. Will Kernen.

13 Q. And who paid Mr. Kernen's fees to  
14 defend you?

15 A. Me.

16 Q. Out of your pocket?

17 A. Yes.

18 Q. And were you reimbursed by anybody?

19 A. No.

20 Q. How much did you pay him?

21 A. About \$10,000.

22 Q. Did you pay it by check?

23 A. Yes.

24 Q. Can you estimate for me, sir, how many

1 times in 2014 you were either out of town or out  
2 of the county and there was no one designated by  
3 you to appear in the event a coroner appearance  
4 would be needed?

5 A. That's a multiple question, so I will  
6 answer the first one no. And your last part of  
7 when is it required for a coroner to appear is --  
8 I don't even understand what you're talking about.

9 Q. All right. Then let's break it down.

10 A. Sure.

11 Q. How many times can you estimate for me  
12 that you left the county or the state for more  
13 than one day in 2014?

14 A. I can't estimate that.

15 Q. More than five times?

16 A. I can't estimate that.

17 Q. More than once?

18 A. I can't estimate that.

19 Q. No idea?

20 A. I have no idea.

21 Q. Didn't you testify earlier that you  
22 left Hocking County from January 9th, 2014 to  
23 January 12th?

24 A. Yes.

1 Q. So you did leave at least once in 2014?

2 A. At least four times.

3 Q. Pardon?

4 A. At least four times.

5 Q. Okay. Well, I just asked you how many  
6 times you left the county, didn't I?

7 A. No. You asked me if I could estimate  
8 and I said no.

9 Q. I'm sorry. I can't hear you.

10 A. You asked me if I could estimate and I  
11 said no.

12 Q. Okay. So you know you left four times  
13 but you -- did you leave more than four times?

14 A. Yes.

15 Q. And when -- as I understand it, when  
16 you left the county on January 9th, 2014, there  
17 was nobody who you had designated during that  
18 absence to appear as a coroner if necessary,  
19 correct?

20 A. I don't know what "appear as coroner if  
21 necessary" even means. That doesn't make any  
22 sense to me. There's nowhere that says a coroner  
23 must appear if necessary. I've never heard of  
24 such a thing.

1 Q. Did you --

2 A. So I would say, no, I don't know what  
3 you're talking about.

4 Q. Okay. Well, let's break that down.

5 A. Sure.

6 Q. When you left the county on January  
7 9th, 2014, how long were you gone?

8 A. Two days.

9 Q. And where did you go?

10 A. Dublin, Ohio.

11 Q. Okay. And --

12 A. Three days I think. I'd have to look  
13 and see what the dates were.

14 Q. Were you aware when you left that if  
15 someone might die in Hocking County under  
16 suspicious circumstances during your absence a  
17 coroner might need to be involved?

18 A. Yes. You could take him to the morgue  
19 too.

20 Q. Did you arrange --

21 A. Which is what they do everywhere else.

22 Q. Did you arrange or designate anybody to  
23 be involved during your absence?

24 A. No.



1 Q. And was it during the time that you  
2 were gone that Russell Swackhammer died?

3 A. I don't know who you're talking about.

4 Q. Do you know who Ralph Swackhammer is?

5 A. No.

6 Q. Do you know if anybody died while you  
7 were at Dublin in January of 2014?

8 A. No coroner cases occurred when I was  
9 gone.

10 Q. No. Do you know if somebody died  
11 during the time you were in Dublin in January  
12 2014?

13 A. I believe I was charged with a crime of  
14 dereliction of duty of a person who was not a  
15 coroner case. If you look at the death  
16 certificate, it's clearly not a coroner case. I  
17 was charged twice for non coroner cases as two of  
18 my five charges.

19 Q. Are you done?

20 A. So my answer is no coroner cases  
21 occurred while I was gone.

22 Q. I didn't ask you about that.

23 A. Okay.

24 Q. I asked you if you were aware if

1 anybody died while you were in Dublin in January  
2 of 2014?

3 A. I found out that people died when I was  
4 gone, yes.

5 Q. Okay. And whether it was a coroner  
6 case or not, was there anybody designated to cover  
7 for you --

8 A. No.

9 Q. -- during January of 2014?

10 A. During those dates specified --

11 Q. Yes.

12 A. -- in January, no.

13 Q. And then again you were gone later in  
14 January, I think January 23rd through the 26th?

15 A. Yes.

16 Q. Correct?

17 And you were aware that while you were  
18 gone it was possible that somebody could die under  
19 unnatural circumstances?

20 A. It was possible but it didn't occur.

21 Q. I didn't ask you if it occurred. Were  
22 you aware that that was a possibility.

23 A. It was possible.

24 Q. And had you arranged for anybody to

1 cover for you while you were gone?

2 A. No. There was a morgue to -- for the  
3 three days to store the person until I got back.

4 Q. I'm sorry. You've got to talk louder.

5 A. There was a refrigerated morgue in  
6 which the deceased could be in place of while I  
7 was gone and I would return and take care of it  
8 when I got back.

9 Q. That wasn't my question. My question  
10 was: Did you arrange for anybody to cover for you  
11 as coroner?

12 A. No. I've told you no.

13 Q. And I believe you were gone from the  
14 county July 3rd through the 6th of 2014?

15 A. Correct.

16 Q. And during that time when you were  
17 gone, were you aware that someone might die in  
18 Hocking County during your absence under  
19 circumstances where a coroner would need to be  
20 involved?

21 A. Yes.

22 Q. And did you arrange for anybody to  
23 cover for you while you were gone?

24 A. My attorney told the prosecutor to

1 stick them in the morgue if they died. There was  
2 no coverage because there was no funding for it.

3 Q. That wasn't my question. My question  
4 was: Did you arrange for anybody to cover for you  
5 during July 3rd to July 6th, 2014?

6 A. I attempted to.

7 Q. And was there anybody appointed to  
8 cover for you?

9 A. No, because there was no payment from  
10 the previous time.

11 Q. Didn't ask you if they were paid. I'm  
12 not --

13 A. That's my answer.

14 MR. BRUNNER: He just said no.

15 A. That's my answer.

16 MR. BRUNNER: He said no even though --  
17 he gave you an explanation, he said no. And he  
18 can give you an explanation if he wants in answer  
19 to your question.

20 MR. TEETOR: Are you done?

21 MR. BRUNNER: Are you?

22 MR. BARBIERE: No, I'm not done.

23 Q. Was there anybody appointed for you  
24 while you were out of the county from July 3rd to

1 July 6th?

2 MR. BRUNNER: Objection. Asked and  
3 answered.

4 A. No.

5 Q. The answer's no?

6 A. No.

7 Q. Do you know if anybody died while you  
8 were out of county July 3rd to July 6th?

9 A. I don't remember.

10 Q. Do you recall that a --

11 A. Oh, yes, there was a woman.

12 Q. A body that was taken to the Hocking  
13 Valley Community Hospital morgue?

14 A. Right.

15 Q. And do you know who eventually had to  
16 sign off to release that body?

17 A. Nobody had to sign off on the body.

18 Q. Did you ever have to sign off?

19 A. No. Because somebody illegally  
20 released my body. The Athens County coroner did  
21 because he thought it was decomposing because he  
22 didn't know we had a refrigerated morgue. He  
23 apologized to me for releasing it.

24 Q. Did you have to release the body?

1 A. No.

2 Q. Do you know who did?

3 A. Yes.

4 Q. Who?

5 A. Athens County coroner at the time.

6 Q. Thank you.

7 And you were absent from the county  
8 July 19th through the 20th, 2014?

9 A. Yes.

10 Q. And do you know whether or not there  
11 was a double shooting while you were absent from  
12 the county?

13 A. Yes.

14 Q. Did one person die?

15 A. Yes.

16 Q. And who had you arranged to cover for  
17 you while you were out of the county at that time?

18 A. Myself.

19 Q. And where were you?

20 A. In New York.

21 Q. Under those circumstances, would a  
22 coroner be expected to investigate and sign the  
23 death certificate?

24 A. Yes, I did such.

1 Q. You did that from New York?

2 A. No. I did it when I got back.

3 Q. Okay. When did you get back?

4 A. In late July, 11 days after I left. So  
5 it would have been nine days after the death. I  
6 believe it's the 28th or 29th.

7 Q. And when that double homicide occurred,  
8 do you know if the shooter had yet been  
9 apprehended when you were contacted?

10 A. It was a -- it was a homicide-suicide,  
11 not a double homicide. Wasn't it? Didn't he kill  
12 himself, barricade or -- maybe he got shot by the  
13 police. It was down in the Wilmington area at a  
14 -- I think at a motel or hotel.

15 Q. And did you tell Commissioner Walker  
16 during the time that you were out of town that you  
17 wouldn't authorize transfer of the body of the  
18 homicide victim for autopsy unless the  
19 commissioners stated in writing that they would --  
20 the funds would be transferred into your account?

21 A. No.

22 Q. What did you tell him?

23 A. I did not. I told him that we had a  
24 problem, that I only had -- I didn't have enough

1 money in my budget for an autopsy and that I had a  
2 homicide victim that was on scene. It occurred  
3 about 10:00 p.m. And that I didn't know what I  
4 was supposed to do since I couldn't send him  
5 legally for autopsy until I had moneys to prove  
6 that -- in the account. I can't spend money that  
7 wasn't allocated to me. I did not refuse to  
8 transport the body. That's per Sandy Ogle. I  
9 think she made that up. I did not say I wasn't  
10 going to do an autopsy. That is just false. I  
11 didn't ask for any resolution. That is completely  
12 false. I asked him for his help. He said I'll  
13 see what I can do.

14 The resolution or whatever they came up  
15 with is what they did. That was not per my  
16 request. The victim was -- the scene was done at  
17 5:00 a.m., the victim was -- I was in  
18 communication throughout the night, including at  
19 5:00 a.m. Lanny North zip-tied the bag, the  
20 evidence was preserved, he was taken to the  
21 morgue. And at noon the next day -- and I already  
22 had whatever resolution they decided to illegally  
23 pass against the Sunshine act, at a little after  
24 midnight, he still went to the morgue. And when I



1 got all the information from Ed Downs and David  
2 Valkinburg at noon the following day and I could  
3 fill out the request form for an autopsy --  
4 because I could fill in all the blanks -- the body  
5 was released to the Franklin County coroner's  
6 office. That is standard. I don't care if it's  
7 homicide, suicide or natural death, that's how  
8 it's done. There's no evidence loss. It's  
9 perfectly protected.

10 Q. Are you finished?

11 A. I am.

12 Q. All right. You talked to Commissioner  
13 Walker?

14 A. I did.

15 Q. Tell me what he asked you. What did he  
16 say?

17 A. I didn't ask him a lot of questions.

18 Q. What did he say?

19 A. He told me that I could just do it and  
20 -- and that he would authorize the money. And I  
21 said you do not have the authority as one of three  
22 commissioners. I need at least two. And he said,  
23 well, you're not going to take my word? And I  
24 said I can't; I need two. I've -- two people.

1       You don't have the authorization as a single  
2       person to do it. I need a second person to say  
3       it's okay and then I've covered my bases and I'm  
4       protected.

5       Q.           All right. So you needed two  
6       commissioners to authorize you to do what?

7       A.           To authorize me to do nothing. They  
8       needed to authorize that there would be money  
9       there to cover me so that my -- I'm not committing  
10      any illegal act or something that I would be held  
11      personally responsible for --

12      Q.           Was --

13      A.           -- money-wise.

14      Q.           Was this on a Friday night?

15      A.           Yes.

16      Q.           Pardon?

17      A.           I believe it was a Friday night.

18      Q.           Okay. So you told him on a Friday  
19      night that you needed authorization from two  
20      commissioners?

21      A.           I needed something from two  
22      commissioners that would say that they would cover  
23      it. That's all I needed.

24      Q.           And how would he be able to get that on

1 a Friday night without contacting at least one of  
2 the other commissioners?

3 A. I don't know. That's not my problem.  
4 My problem is I had \$625.10 in my budget.

5 Q. Well --

6 A. And I had been there May 27th and I  
7 didn't get the money, or May 24th, I don't know  
8 which. It's not my problem. The means on how he  
9 did it was not a concern for me. My concern is  
10 there was a homicide victim that I'm trying to do  
11 the best I can and that I don't have the money to  
12 do my job. And in order to do my job, I cannot  
13 spend money that is not allocated to me --

14 Q. Are you finished?

15 A. -- by the commissioners.  
16 I am.

17 Q. You told him that you needed  
18 authorization from two commissioners, not just  
19 Walker, correct?

20 A. I said that his single word was not  
21 good enough to protect me; that is correct.

22 Q. And it wasn't his problem --

23 A. He said he would see what he could do  
24 and that's where the conversation was left. Next

1        thing I know is I got an e-mail with whatever they  
2        did.

3        Q.                Okay.    So you said you have to get  
4        another commissioner to sign off, correct?

5        A.                No, I didn't say sign off on anything.  
6        I need permission from two commissioners, not one.  
7        One commissioner does not have authority to issue  
8        transfer of moneys.

9        Q.                So you were not going to take any  
10       action until two commissioners gave you written  
11       permission?

12       A.                The body was going to stay in the  
13       morgue until I had the proper money to do the  
14       autopsy; that's correct.

15       Q.                And so what did you expect the  
16       commissioner to do to get authorization from  
17       somebody else?

18       A.                I don't know --

19       Q.                It was his problem?

20       A.                -- what he was going to do.    Yeah, it  
21       wasn't my problem.

22       Q.                So you expected him --

23       A.                I have my job.    He has his job.    Stay  
24       in your own lanes; everybody does fine.

1 Q. And how long were you willing to leave  
2 that body there until you got the authorization  
3 from two commissioners?

4 A. Until I was assured there would be  
5 money placed in the account.

6 Q. And so is it your understanding that  
7 Commissioner Walker went and got written  
8 permission with another commissioner to do that?

9 A. I don't know what he did.

10 Q. Did he ever communicate to you that  
11 there was authority to transfer the funds from two  
12 commissioners?

13 A. No, I got an e-mail from Lanny North.

14 Q. Saying what?

15 A. That some -- I don't know what it --  
16 you have to show me the document in front of me.  
17 But it was basically said that I had permission --  
18 that they were going to put money in there on such  
19 -- such and such a date or something like that.  
20 That was good enough.

21 Q. So the only person you talked to after  
22 the conversation with Walker about authority from  
23 two commissioners was Lanny North?

24 A. I thanked Lanny for his e-mail when he

1       called me for about three minutes. And I told him  
2       to zip-tie the bag and we'd put him in the morgue.  
3       The money was there apparently; it was promised,  
4       which is fine. That's all I need is a promise  
5       that I can do my job properly. Then he went to  
6       the morgue and he was in the morgue until I got  
7       the vital information from David Valkinburg and Ed  
8       Downs.

9       Q.           Are you telling us you took Lanny  
10       North's word but you wouldn't take Commissioner  
11       Walker's word?

12       A.           No. I got -- I got an e-mail from  
13       Lanny North and I thanked him for the e-mail. I  
14       didn't say he had any authority over the  
15       commissioners.

16       Q.           Did anybody give you any written  
17       confirmation that two commissioners had approved  
18       that?

19       A.           I got some sort of written confirmation  
20       of some sort sent to my e-mail. I mean it's a --  
21       it's an exhibit somewhere. I can't tell you  
22       exactly off the top of my head what it says, but  
23       it's an exhibit.

24       Q.           And you have sued the commissioners in

1       this case for getting that permission that you  
2       wanted or the authorization that you wanted,  
3       correct?

4       A.               I have -- I have a violation of -- a  
5       Sunshine Law violation by a round-robin illegal  
6       meeting; that is correct.

7       Q.               You have sued the commissioners for  
8       violation of the Sunshine Law, correct?

9       A.               Correct.

10      Q.              And that claim relates to them getting  
11      permission that you said you needed in order to  
12      give authorization?

13      A.              I'm telling you --

14      Q.              True?

15      A.              -- that what they did -- how they did  
16      it and their circumstances on how they did it  
17      wasn't proper.

18      Q.              They did it --

19      A.              It's against the law.

20      Q.              -- because you told them you  
21      wouldn't --

22      A.              It's called the Sunshine Law and they  
23      violated the law.

24      Q.              You sued them for a Sunshine violation,

1 correct?

2 A. I did.

3 Q. And because they got written  
4 authorization that you told them you needed?

5 A. No, I didn't say that I needed written  
6 authorization. That's false.

7 Q. You told them you wouldn't be able to  
8 transfer until two commissioners approved --

9 A. That is not true.

10 Q. Then what did you tell them?

11 A. That he can sit in the morgue until I  
12 was assured that there would be money. I didn't  
13 say I needed written, I didn't say I needed a  
14 resolution, I didn't say any of that. How they --  
15 if they wanted to call each other and do illegal  
16 things, that's their problem.

17 Q. Did you tell them you needed approval  
18 from two commissioners?

19 A. I told John Walker I didn't -- I told  
20 him that his word wasn't good enough. I needed at  
21 least two, that's what I --

22 Q. You needed two commissioners?

23 A. I just gave you my quote.

24 Q. Is that right?



1 A. I gave you my quote.

2 Q. You told him he needed two  
3 commissioners?

4 A. I told him that his word wasn't good  
5 enough, that I needed at least two. That's what I  
6 said.

7 Q. And you --

8 A. I did not say I need two commissioners.  
9 I just gave you my quote at least three times.

10 Q. And they got you two commissioners?

11 A. Apparently.

12 Q. And then you sued them for it?

13 A. I sued them for having an illegal  
14 meeting. I didn't sue them for getting -- putting  
15 money in my account.

16 MR. TEETOR: He did say -- he already  
17 told me that.

18 MR. GLASGOW: That's fine.

19 Q. Do you know if there was a  
20 murder-suicide in March of 2014?

21 A. Possibly.

22 Q. Do you remember a murder-suicide that  
23 was referred to as the Seeber case, S-E-E-B-E-R?

24 A. I don't know when it was. But there

1 was a -- I believe a woman who was shot through a  
2 windshield with a high powered rifle a couple  
3 times.

4 Q. Were you out of town when that  
5 occurred?

6 A. No.

7 Q. Did you go to the scene?

8 A. If it's the one I'm thinking of, I was  
9 there. I don't know what year it was though.

10 Q. Did you tell the commissioners in  
11 May of 2014 "hamburger spoils in the fridge"?

12 A. No. I said even hamburger goes bad in  
13 the fridge. That was my quote.

14 Q. "Even hamburger goes bad in the  
15 fridge"?

16 A. Yes.

17 Q. And what was the context in which you  
18 told them that?

19 A. I went to the meeting and I asked for  
20 funding, that I was leaving for 11 days, that  
21 Laina Fetherolf set about six inches from me to my  
22 right and I asked her what the resolution was to  
23 our problem of not having any money in the  
24 coroner's account, and she didn't answer. And I

1       asked the commissioners. I said we cannot have  
2       people die while I'm gone and leave them in the  
3       morgue for 11 days, that's not proper. Their  
4       answer was nothing. They just sat there. They --  
5       they were going to think about it. I don't know  
6       what they were going to do, but they weren't going  
7       to do anything. They weren't going to allocate  
8       money, they weren't going to give me employees,  
9       and they weren't going to pay for coverage. I  
10      mean you've got to do one or the other. You've  
11      got to decide. Pay for employees or pay for  
12      coverage. To do neither is not going to work.

13               So I said I have -- I'm going to be  
14      gone. I told them the dates I was going to be  
15      gone. I was going to be gone 11 days. And they  
16      acted -- they didn't say anything, they just sat  
17      there. And as I was walking out, I looked at them  
18      and they weren't going to do -- I said are you not  
19      going to do anything? And they just looked at me,  
20      and I said even hamburger goes bad in the fridge.  
21      You cannot -- this isn't proper. I left and then  
22      Laina Fetherolf decided to create a fictitious  
23      audio tape. Because William Kaepner, who was  
24      there after I left -- she didn't say a thing when

1 I was there. When I left, William Kaepner had  
2 already called my office and left a message to  
3 call him and I did. And he said something is  
4 going on here that's really bad. They are having  
5 a conversation like you are still in the room.  
6 That audio tape was fictitious. I can't believe  
7 he called a -- a deceased person hamburger. I was  
8 never there when any of that was discussed. That  
9 was totally made up. Then they spliced it  
10 together like it was real.

11 Q. And who all --

12 A. And they released it on the Internet.

13 Q. And who do you claim was involved in  
14 creating a fictitious tape from your public  
15 meeting?

16 A. I don't know who spliced it together.

17 Q. Who do you claim was involved? Do you  
18 have any idea who was involved in doing that?

19 A. I know the voices on the tape are Laina  
20 Fetherolf and that William Kaepner said she was  
21 doing it, that she was creating -- she was talking  
22 like I was there when I clearly had already left.

23 Q. So you're claiming that the prosecutor  
24 created a fictitious tape?

1 A. I am. Yes, I am.

2 Q. And do you know --

3 A. I'm saying she participated by acting  
4 like I was there when I clearly was not. And  
5 William Kaepfner will come to the trial and  
6 testify to that fact.

7 Q. And is it your testimony that everybody  
8 -- every public official who was at that meeting  
9 participated in allowing that fictitious tape to  
10 be created?

11 A. I don't know who participated, but I  
12 would guess that if I was having a conversation  
13 with a fictitious person that I would probably be  
14 the one that was most participating.

15 Q. Well --

16 A. Now, where that recording went  
17 afterwards and who participated afterwards, I  
18 mean, things are released to the media. I think  
19 several of the defendants have participated in  
20 news media releases and all kinds of things, you  
21 know, you -- I don't know exactly who did what.  
22 But I know that it was fictitious. And I know it  
23 was malicious. I know it was false and it was  
24 created in front of a witness who will testify at

1 the trial that it was done.

2 Q. And your knowledge about this  
3 fictitious tape is based solely on what this  
4 William Kaepfner has told you?

5 A. He told me it was happening and then I  
6 heard it on the Internet on YouTube after that.  
7 He was just telling me why it was being created.  
8 I don't know how soon afterwards, a week or two  
9 later, that it showed up on YouTube.

10 Q. Do you know who put it on YouTube?

11 A. No. But it was an account that has  
12 been inactive since then and it only had five  
13 members.

14 Q. And what were those numbers? Whose  
15 numbers were they?

16 A. Members.

17 Q. Five members?

18 A. They're YouTube -- you join the YouTube  
19 channel. I don't know. I'm just telling you I  
20 don't know much about YouTube, but I can tell you  
21 that that's what I've been told by my son who's  
22 listened to it. And said this was not created to  
23 make money, this was created to be damaging to  
24 you.

1 Q. Did you go to Jamaica for four days in  
2 July of 2014?

3 A. Yes.

4 Q. And had you arranged for anybody to  
5 cover for you while you were out of the country?

6 A. No.

7 Q. And did you tell Captain Alford that if  
8 a death occurred just transport the body to the  
9 hospital morgue?

10 A. Yes.

11 Q. Was a special prosecutor appointed  
12 regarding the Swaim death?

13 A. Yes.

14 Q. Who was it?

15 A. C. David Warren.

16 Q. Pardon?

17 A. David Warren.

18 Q. And how would you characterize your  
19 relationship with Special Prosecutor Warren?

20 A. Poor, based upon his derogatory  
21 comments on his e-mails about me.

22 Q. Would you say you had a hostile  
23 relationship with him?

24 A. Not in the beginning.

1 Q. At some point?

2 A. I would say that he was nice to my face  
3 and he was malicious behind my back. Yes. He was  
4 not up front and honest.

5 Q. Fair to say you had a contentious  
6 relationship with Dave Warren at some point in  
7 time?

8 A. He created a contentious relationship,  
9 yes.

10 Q. Did you have a contentious relationship  
11 -- I didn't ask you who created it.

12 A. I didn't trust him.

13 Q. You called him dirty?

14 A. He is dirty. I stick with that  
15 statement. He's totally dirty.

16 Q. Did Special Prosecutor Warren come to  
17 your office to talk to you?

18 A. Yes.

19 Q. Did you at some point during that  
20 conversation tell him to go fuck himself?

21 A. I did.

22 Q. And you saw him in the parking lot?

23 A. Yes. He was sitting out there for 15  
24 minutes after he -- he was escorted out of my



1 office, that is correct.

2 Q. When you say escorted, did you order  
3 him to leave?

4 A. Yes.

5 Q. And then did you yell at him truth and  
6 justice, gentlemen, truth and justice?

7 A. I did.

8 Q. How would you characterize your  
9 relationship with Prosecutor Fetherolf?

10 A. I don't have a relationship with her.

11 Q. Is it hostile?

12 A. No. I don't have one with her at all.  
13 I haven't talked to her in I don't know how many  
14 years.

15 Q. Is it contentious?

16 A. The last time I talked to her was when  
17 she wouldn't answer my question at the  
18 commissioner meeting.

19 Q. Would you say you had a collegial  
20 relationship with her?

21 A. I don't have any relationship with her,  
22 I think I've answered that.

23 Q. None at all?

24 A. No, none.

1 Q. How would you characterize your  
2 relationship with Sheriff North?

3 A. I don't have a relationship with  
4 Sheriff North.

5 Q. None at all?

6 A. No.

7 Q. Not friendly, not unfriendly, not  
8 collegial, not hostile, just not a relationship?

9 A. He doesn't talk to me; I don't talk to  
10 him. There's no relationship.

11 Q. Do you talk to Laina Fetherolf?

12 A. No.

13 Q. How about Dave Valkinburg?

14 A. I try not to.

15 Q. Yeah.

16 A. He likes to record me.

17 Q. Do you have any relationship with him?

18 A. No.

19 Q. How about Ed Downs, do you have any  
20 relationship with him?

21 A. No.

22 Q. What about the commissioners? Sandy  
23 Ogle, do you have a relationship with her?

24 A. Yeah.

1 Q. How would you characterize it?

2 A. Neutral.

3 Q. What about Clark Sheets?

4 A. No, I don't have a good relationship at  
5 all.

6 Q. What about John Walker?

7 A. Yes, I have a good relationship with  
8 him.

9 Q. Good relationship?

10 A. Yes.

11 Q. Are you claiming attorney's fees in  
12 this case?

13 A. Am I expecting to be reimbursed for  
14 them?

15 Q. Yeah. Are you suing --

16 A. Yes.

17 Q. -- to get your attorney's fees for  
18 Mr. Brunner?

19 A. Absolutely. Yes.

20 Q. How much have you paid him so far?

21 A. I have no idea.

22 Q. Can you estimate it?

23 A. No.

24 Q. Been more than \$10,000?

1 A. Absolutely.

2 Q. More than \$50,000?

3 A. Yes.

4 Q. More than \$100,000?

5 A. I -- after that, I don't know how much

6 I paid him.

7 Q. You don't know if it's more or less

8 than \$100,000?

9 A. I do not.

10 Q. Did you pay him by check, credit card,

11 how are you paying it?

12 A. I think check.

13 Q. How many checks have you written him?

14 A. I have no idea. I write him one every

15 month.

16 Q. Got copies of those checks?

17 A. I have no idea.

18 Q. What do you mean you have no idea? You

19 don't get returned checks?

20 A. No. It's all electronic. We don't get

21 returned checks, no.

22 Q. But you write him a monthly check, it's

23 more than 50,000 and you don't know if it's more

24 than 100, correct?

1 A. Correct.

2 Q. What's your fee arrangement with him?

3 A. I don't know. You'd have to ask him.

4 Q. Well, did you enter into a fee  
5 arrangement with Mr. Brunner?

6 A. There is a contract that we have  
7 signed, yes.

8 Q. Paying him hourly?

9 A. Yes.

10 Q. How much an hour?

11 A. I don't know.

12 Q. Ballpark estimate?

13 A. I don't know.

14 Q. More than 50 bucks?

15 A. It's more than 50, but I don't know how  
16 much.

17 Q. Is it more than 350?

18 A. I don't know exactly how much I'm  
19 paying him.

20 Q. Do you have a copy of that contract?

21 A. Not with me. You can ask --

22 Q. Some --

23 A. -- my attorney for the contract.

24 Q. Do you have one somewhere?

1 A. If I do, I don't know where it's at.

2 Q. Is any portion of your fee agreement  
3 with Mr. Brunner based on a contingency?

4 A. Yes.

5 Q. What percentage?

6 A. I don't know how much it is. But I  
7 have no idea.

8 Q. So you're paying him hourly plus a  
9 percentage of whatever you recover?

10 A. Yes.

11 Q. And is the contingency more than  
12 5 percent?

13 A. I don't know.

14 Q. More than 10 percent?

15 A. I don't know.

16 Q. More than 50 percent?

17 A. I don't know.

18 Q. Could be, you just don't know?

19 A. I don't know what it is. You can keep  
20 asking me percents, I'm still going to answer the  
21 same answer. I don't know.

22 Q. When did you first hear that an OHLEG  
23 was run on Will Kernen?

24 A. I think it was September 2014.

1 Q. And who's the first person that ever  
2 mentioned that to you?

3 A. Jeremy Dye.

4 Q. Did anybody else ever mention that to  
5 you?

6 A. Not specifically. There were rumors of  
7 this or that, but I don't know exactly how much of  
8 it was the racist recordings and how much of it  
9 was the OHLEG.

10 Q. Well, did you hear any rumors before  
11 Jeremy Dye told you about it?

12 A. Of what?

13 Q. About an OHLEG being run on Will  
14 Kernen?

15 A. No.

16 Q. So it first --

17 A. But I did on the racist recordings.

18 Q. I'm asking about the OHLEG.

19 A. I'm answering your question too.

20 Q. Stick with me.

21 Did anybody ever tell you anything  
22 about suspicions about an OHLEG being run on Will  
23 Kernen prior to Jeremy Dye?

24 A. No.

1 Q. And what did he tell you about that?

2 A. Well, he told me in the office, in my  
3 exam room that -- that -- do you know that there  
4 was an OHLEG run on your attorney and his wife.

5 Q. And have you ever seen that OHLEG?

6 A. No.

7 Q. Have you ever seen an image of that  
8 OHLEG?

9 A. I'm unable to answer that due to  
10 attorney -- attorney/client privilege.

11 Q. Did you ever tell anybody that you  
12 personally visualized that OHLEG?

13 A. Never.

14 Q. Never?

15 A. No.

16 Q. Never put that in a writing or orally?

17 A. No. I -- I'd never saw or possessed  
18 it; that is correct. I went to Steve Schierholt  
19 and hold him that there was a date and time that I  
20 was told, but I never specifically saw it,  
21 possessed it, or examined any kind of document  
22 such as that.

23 Q. So you never told the gentleman you  
24 just mentioned that you personally visualized an



1 image of that OHLEG?

2 A. That is correct. I told him there was  
3 a date.

4 Q. Did anyone ever tell you a reason why  
5 that OHLEG was run?

6 A. No.

7 Q. Did you ever ask anybody?

8 A. I never knew the OHLEG was run until  
9 Steve Schierholt told me in November.

10 Q. That wasn't my question.

11 Did you ever ask anybody why that was  
12 run?

13 A. No. I know it was run by Ed Downs  
14 under Dave Valkinburg's ID and password.

15 Q. Wasn't my question.

16 My question was: Did you ever ask  
17 anybody --

18 A. It's four felonies I believe.

19 Q. -- why it was run? Did you?

20 A. What?

21 Q. Did you ever ask anybody why the OHLEG  
22 was run?

23 A. No. I didn't know it was specifically  
24 run when I talked to Steve Schierholt. He's the

1       only one that has ever confirmed it was run to me.

2       Q.               At any time in your life did you ever  
3       ask anybody why that OHLEG was run on Will Kernen?

4       A.               No.

5       Q.               Mr. Barbieri asked you about  
6       tape-recordings and you indicated you didn't have  
7       any, correct?

8       A.               Correct.

9       Q.               Have you ever had any tape-recordings  
10      that relate to any of the claims you've made in  
11      this case?

12     A.               No.

13     Q.               Have you ever listened to any?

14     A.               Yeah. Yes, I have.

15     Q.               Which ones?

16     A.               The ones that Jeremy Dye's where the  
17     first one was Dr. Douche from Ed Downs, calling me  
18     Dr. Douche on a phone call. And then I had  
19     another one of a 20-minute rant about how much  
20     they hated Judge Wallace and how incompetent he  
21     was, and that was mostly Ed Downs and Lanny chimed  
22     in that they were going to have to put up with him  
23     for another five years and they talked about  
24     campaigning against him. That's our Common Pleas

1 highest court judge. And then I heard the racist  
2 recordings where the only good N word is a dead N  
3 word and all that, which I believe you have in  
4 your possession.

5 Q. Were all of those played for you by  
6 Jeremy Dye?

7 A. Yes.

8 Q. And did you ask him to do anything with  
9 those?

10 A. No.

11 Q. Do you know if he did do anything with  
12 those?

13 A. I don't know what he did with them.

14 Q. Did you ask him to do anything with  
15 them?

16 A. No.

17 Q. You don't know where -- whether he gave  
18 them to anybody else or not?

19 A. I don't know what he did with them.  
20 That's -- you can ask him what he did with them.

21 Q. Are those the only tape-recordings  
22 you've ever heard related to this case?

23 A. Yes.

24 Q. Did you see a --

1       A.               Well, the -- there were -- whatever you  
2       guys supplied. I mean if you supplied me  
3       recordings, I have listened to them.

4       Q.               Well, do you remember listening to any?

5       A.               Yeah.

6       Q.               Other than what you've told me?

7       A.               I listened to Alex Pavlick. I think  
8       there was one from Detective Mortiz where I said I  
9       know you're recording me, and he said, no, I'm  
10      not. I go yeah, you are, and he goes no, I'm not.  
11      And I go yes, you are. But he was really  
12      recording me because I got the recording.

13      Q.               And who played those two for you?

14      A.               I got them from you I believe.

15      Q.               Who played them for you?

16      A.               I believe I got them from my attorney.  
17      I don't know where I got them from.

18      Q.               Did your attorney give you copies of  
19      them?

20      A.               I don't know if I came here or if I  
21      went to the -- I don't know for sure.

22      Q.               Did you see a newspaper article about  
23      the tape-recordings with the racist comments?

24      A.               Yeah, I saw a bunch of them.

1 Q. Did you provide any of that information  
2 to the media?

3 A. No.

4 Q. Did you ask anybody to provide it to  
5 the media?

6 A. No.

7 Q. Do you have any idea or suspicions as  
8 to who did?

9 A. I can't speculate.

10 Q. I'm not asking you to speculate. Do  
11 you have any idea who did?

12 A. I'm not guessing for you who did it.

13 Q. Do you have any idea --

14 A. I don't know.

15 Q. -- who did?

16 A. I'll tell you I don't know.

17 Q. Did you ever talk to anybody about who  
18 provided those to the media?

19 A. No.

20 Q. And you have no idea as we sit here who  
21 did that, correct, under oath?

22 A. I assume that wherever -- whoever got  
23 the recordings released them to whatever media. I  
24 don't -- I mean The Dispatch had them.

1 Q. Did -- and you never talked to anybody  
2 about --

3 A. I did not talk to The Dispatch about  
4 them, no.

5 Q. Didn't ask you that. Let me finish.  
6 You never talked to anybody about who  
7 provided those tapes to the media?

8 A. No.

9 Q. And as we sit here, you can say under  
10 oath you have no idea who did that?

11 A. I mean I can guess but I don't think  
12 that's proper. You don't want me to guess. I'm  
13 not -- don't plan on guessing. I don't think -- I  
14 don't want to place blame on people who are  
15 innocent.

16 Q. Have you talked to members of the media  
17 about any issues in this case?

18 A. I was called by the Huffington Post and  
19 they weren't interested.

20 Q. By who?

21 A. The Huffington Post. They wanted to  
22 know what the background, if I had a copy of the  
23 complaint. They weren't -- I mean that's all they  
24 wanted from me. And then I -- I don't have a

1 clean copy of the complaint.

2 Q. Did you ever talk to anybody else at  
3 the media about any of the defendants or the  
4 issues that you've alleged in this lawsuit?

5 A. No.

6 Q. Did you ever talk to Gretchen Gregory  
7 about any of these issues?

8 A. No.

9 Q. Deb Tobin?

10 A. No, not really. I mean she read an  
11 article about it, but it was kind of a vague  
12 article.

13 Q. None of these media or newspaper  
14 reporters or radio folks ever called you to talk  
15 about any of the defendants --

16 A. No.

17 Q. -- in this case?

18 A. Surprisingly not.

19 Q. And you never went in and talked to any  
20 of them?

21 A. Absolutely not.

22 Q. Did you ever give any of them any  
23 documents relating to any of the defendants or any  
24 of the claims in this case?

1 A. A Huffington Post, I -- I asked my  
2 attorney to send a copy of the complaint, that's  
3 it. It's public record. I figured it was okay.

4 Q. Did you --

5 A. They asked for it. I didn't have -- I  
6 had things attached to e-mails. I didn't want to  
7 send anything from me.

8 Q. Now, I believe at your initial  
9 deposition you were asked about attempts to obtain  
10 coverage for those times when you were out of  
11 county and there was nobody designated to cover  
12 for you. Do you recall that?

13 A. No.

14 Q. You don't remember that?

15 A. No.

16 Q. Do you --

17 A. Not specifically as you're stating it,  
18 no.

19 Q. Say it again.

20 A. Not specifically as you are stating it.

21 Q. Okay. What do you recall about being  
22 asked about coverage, anything?

23 A. Well, I mean we talked a lot about it.  
24 What do you want to talk about?



1 Q. Did you --

2 A. Ask me a question, I'll answer your  
3 question.

4 Q. All right. Did you ever talk to  
5 Dr. Ireton about covering for you?

6 A. Yes.

7 Q. When?

8 A. That's where the 500 and \$1,000  
9 contract came in. Specifically mentions --

10 Q. All I asked you was did you talk to  
11 him.

12 A. I'm -- I'm answering you. I should be  
13 allowed to explain my answer and I did.

14 Q. Did you talk to him or not?

15 A. Yes.

16 Q. When?

17 A. Around this -- the time of the problem.  
18 I specifically gave you names of Dr. Neff and I  
19 gave you names of Dr. Tornwall and I gave you a  
20 name of Dr. Ireton. Those three specifically I  
21 know I gave you in the previous deposition.

22 Q. Let's try it again.

23 When did you talk to Dr. Ireton?

24 A. After -- whenever I came up with the

1 contract, the 5,000 -- I mean I have to look. I  
2 think that was done around May.

3 Q. May of 2014?

4 A. I believe -- I mean it was around that  
5 time.

6 Q. Okay. I just want --

7 A. Because he wouldn't do it and then when  
8 I --

9 Q. I just want your best recollection.

10 A. He came back to me.

11 Q. If you'll just answer the question, I  
12 might be able to get done in the time that I have.

13 MR. BRUNNER: Objection. He has.

14 A. I'm trying to answer your question.  
15 You don't like my answer.

16 Q. No. I just asked you when you talked  
17 to him. Either you know or you don't?

18 A. No, I don't know.

19 Q. Where were you when the talked to him?

20 A. In the doctors' lounge.

21 Q. And how long was the conversation?

22 A. Five, 10 minutes.

23 Q. Five minutes?

24 A. Or 10 minutes. Five to 10 minutes. It

1 was a good one.

2 Q. And what did you say to him?

3 A. I asked him if he would be interested,  
4 and he said absolutely not, you're getting bad  
5 publicity. No one wants to be part of the  
6 coroner's office now because there's -- you know,  
7 they're saying bad things about you in the paper.  
8 And I don't want to be raked across the coals if I  
9 make a mistake.

10 Q. Any other conversation with Dr. Ireton?

11 A. I think I showed him the contract that  
12 I drew up.

13 Q. Was that the same contract like what  
14 you'd proposed for Dr. Gorniak?

15 A. No. Dr. Gorniak we never really had a  
16 contract. We had a verbal agreement and then she  
17 submitted an invoice, but there was no contract.

18 Q. What were the terms you proposed to  
19 Dr. Ireton?

20 A. We've seen it in an exhibit today. It  
21 was the one I took to the commissioners in late  
22 May, I believe it was May 27th or so, when the --  
23 \$500 a day and \$1,000 if you are called out.

24 Q. And you specifically gave that proposal

1 to Dr. Ireton?

2 A. I did.

3 Q. And he refused?

4 A. Yes.

5 Q. Okay.

6 A. No. No, he didn't refuse. He said it  
7 -- he would do it.

8 Q. He said he'd do it?

9 A. He would do it, yeah. He just didn't  
10 want his name mentioned. He didn't want to be put  
11 in the paper.

12 Q. Okay. Did you ever come back and tell  
13 anybody that he'd do coverage for you?

14 A. They refused the contract. It says  
15 Dr. Blank. He didn't want his name in there. He  
16 did not want to be brought up on the front page  
17 saying Dr. Ireton's now going to cover the  
18 coroner's office. He didn't want any publicity  
19 whatsoever. He is willing to do it if nobody was  
20 giving any recognition in the newspaper about it.  
21 He didn't want any notoriety. He didn't want  
22 anything to do with it. He was willing to do it  
23 as a favor to me, but other than that -- if  
24 anybody else would have asked him to do it, he

1 wouldn't have done it.

2 Q. So what you are telling me is  
3 Dr. Ireton agreed as a favor to do it for \$500 a  
4 day and \$1,000 per call?

5 A. That is correct.

6 Q. And then you went back and told the  
7 commissioners he was willing to do it?

8 A. I don't know -- yes. Because the  
9 contract was written mentioning his children  
10 specifically, yes.

11 Q. Okay.

12 A. That is true.

13 Q. And when did you tell the commissioners  
14 that you had Dr. Ireton prepared to cover for you?

15 A. I would not give him a name.

16 Q. Pardon?

17 A. Per his request, I would I not give him  
18 his name up. I told them I doctors that would --  
19 that would cover at this and it was him.

20 Q. Did you tell the commissioners that  
21 Dr. Ireton would cover for those --

22 A. No.

23 Q. -- terms?

24 MR. BRUNNER: Objection, asked and

1       answered.

2       A.               I told him doctors but not a specific  
3       doctor.

4       Q.               And when did you approach Dr. Tornwall?

5       A.               Just in the hallway at the hospital. I  
6       see him two to three times a week in the hospital.

7       Q.               Roughly when?

8       A.               About the same time.

9       Q.               Okay. Probably May of 2014?

10      A.               Could be.

11      Q.               And you saw him in a hallway?

12      A.               I did.

13      Q.               And what did you say to him?

14      A.               I asked him if he could cover the  
15      coroner and he said no.

16      Q.               Did you tell him how much you'd pay --  
17      how much he'd make?

18      A.               He wasn't interested no matter the  
19      cost. Nobody wanted to do it. I was smeared.  
20      They didn't want it.

21      Q.               Did Dr. Tornwall tell you why he didn't  
22      want to do it?

23      A.               Yes.

24      Q.               What did he tell you?

1       A.           I don't want anything to do with that,  
2       I don't care how much you pay me.

3       Q.           Did you or he say anything else during  
4       that conversation?

5       A.           No.

6       Q.           How long was that conversation?

7       A.           12 seconds.

8       Q.           What about Dr. Neff, when did you talk  
9       to him?

10      A.           I don't remember.

11      Q.           Roughly?

12      A.           Within 10 days of the other two.

13      Q.           Okay. And where did you talk to him?

14      A.           I don't know.

15      Q.           Was it at the hospital?

16      A.           It could have been -- we're next-door  
17      neighbors at the -- at the condo unit, so it could  
18      have been walking across the parking lot. I don't  
19      know where.

20      Q.           Do you have a specific recollection of  
21      talking to him --

22      A.           Yeah.

23      Q.           -- about this instance?

24      A.           I know we talked about it. But it was

1 another thing in passing and he said no thanks. I  
2 didn't even give him the terms.

3 Q. Do you have a specific recollection of  
4 talking to him about it?

5 A. Yes.

6 Q. But you don't know where you were?

7 A. No.

8 Q. Do you know how long that conversation  
9 was?

10 A. It was brief.

11 Q. How brief? Estimate for me how long it  
12 was.

13 A. I would say less than -- on that topic  
14 I would say less than 10 seconds.

15 Q. Okay. What did you tell him?

16 A. I asked him if he could cover the  
17 coroner's office and he said no thanks.

18 Q. Is there any other conversation other  
19 than what you just told us?

20 A. With him?

21 Q. Yes.

22 A. No.

23 Q. Did you talk to any other doctors?

24 A. If I did, I don't remember.



1 Q. Okay. Are there any other doctors you  
2 talked to that you recall?

3 A. That was per my attorney's request too.  
4 He said you should go get a list of doctors so  
5 that you can see if somebody will really cover  
6 you. And he was sincere and wanting me to get  
7 coverage.

8 Q. Do you recall talking to any other  
9 doctors about coverage for --

10 A. I don't recall.

11 Q. Other than those -- let me finish,  
12 please.

13 Do you recall talking to any other  
14 doctors about covering for you other know that  
15 those three we just mentioned?

16 A. Not specifically. But I believe I  
17 mentioned a fourth in my previous deposition. I  
18 don't remember who it was.

19 Q. You don't remember the name?

20 A. No.

21 Q. Don't remember who it was, when it was?

22 A. No.

23 Q. Do you remember where you were when you  
24 talked to him?

1 A. No. Probably the doctors' lounge.

2 Q. Did you ever tell any county officials  
3 prior to suing them about the specific  
4 conversations and doctors that you had  
5 communicated with about covering for you?

6 A. I didn't list the doctors to them. I  
7 gave them a contract that was for doctors that  
8 would accept the agreement and it was mainly  
9 Dr. Ireton but he did not want his name mentioned  
10 specifically. If I turned an invoice in for him,  
11 it would say Dr. Ireton payable to this address.

12 Q. Who at the county did you tell that you  
13 had talked to Dr. Neff?

14 A. Nobody.

15 Q. Who at the county did you tell you'd  
16 talked to Dr. Tornwall?

17 A. Nobody. What would be the point?

18 Q. Are you claiming any mental or  
19 psychological distress as a result of the criminal  
20 charges?

21 A. Yes.

22 Q. At any time in the last three years  
23 have you had any psychiatric or psychological  
24 evaluation?

1 A. No.

2 Q. Have you had any counseling?

3 A. No.

4 Q. Do you remember a suicide by firearm in  
5 roughly September of 2014?

6 A. No.

7 Q. Where you secured the firearm?

8 A. No.

9 Q. Have you ever -- do you recall an  
10 incident where you secured a firearm and released  
11 it to the victim's husband?

12 A. That day, no.

13 Q. Any time?

14 A. Yes.

15 Q. When did that happen?

16 A. I don't know. But I know we've had to  
17 do it because the sheriff department doesn't want  
18 our -- the weapons anymore. They refused them on  
19 scene.

20 Q. Give me a specific instance where you  
21 secured a firearm from a suicide scene and  
22 released it to the victim's husband.

23 A. Well, I just did one to the victim's  
24 live-in girlfriend of 25 years.

1 Q. Can't hear you.

2 A. I did -- I just did one about two or  
3 three weeks ago to a man's live-in girlfriend of  
4 25 years. It was her weapon. That was about two  
5 to three weeks ago. I went to a scene, a guy had  
6 leaned over his live-in girlfriend of 25 years and  
7 shot himself in the head with a 50 caliber  
8 American Eagle. It was quite a mess.

9 Q. And did you secure the firearm and then  
10 release it?

11 A. No. No. I -- it was being left there  
12 and I asked the deputies if they would secure it  
13 and they said they didn't want it. Detective  
14 Shirey did not want it. They didn't stay to even  
15 investigate the suicide at all. They just wanted  
16 the marijuana plant in the basement and then they  
17 left.

18 Q. That's different than what I asked. I  
19 asked if you recall any situation where you  
20 secured a firearm and released it to --

21 A. No.

22 Q. Let me finish.

23 A. I don't secure firearms.

24 Q. Would you please let me finish.

1 A. Go right ahead.

2 Q. And then I'll let you finish.

3 A. Sounds great.

4 Q. Do you recall any situation where you  
5 secured a firearm at a suicide and then released  
6 it to the victim's husband?

7 A. No. I don't secure weapons, period.  
8 I'm not an expert at weapons.

9 MR. TEETOR: Let's take a five-minute  
10 break while I find some stuff.

11 MR. GLASGOW: Sure.

12 THE VIDEOGRAPHER: We are off the  
13 record. The time is 5:14.

14 (A short recess is taken.)

15 THE VIDEOGRAPHER: Back on the record.  
16 The time is 5:24.

17 Q. Sir, do you remember a case involving a  
18 Betty Jo Castor?

19 A. Yes.

20 Q. And was there a firearm involved in  
21 that case?

22 A. Yes.

23 Q. And what happened to it?

24 A. The Lieutenant Walton -- I don't know,

1 if I guess he's -- is he a Lieutenant Walton,  
2 Captain Walton. I think he might have been a  
3 lieutenant at the time. He was from Logan Police  
4 Department. The -- he secured the weapon, put it  
5 in a bag, and then I took possession of it. It  
6 sat in my office for several weeks and I  
7 eventually released it back to --

8 Q. Didn't hear the last part.

9 A. Then I eventually released it back to  
10 the husband.

11 Q. Back to who?

12 A. The husband.

13 Q. To the husband of the victim?

14 A. Yes, per his request.

15 Q. Did you ever notify anybody at the  
16 Sheriff's Office that you had that gun for two  
17 weeks?

18 A. Might have been longer than that. No.  
19 They didn't take it then; they left -- they left  
20 the scene.

21 Q. That wasn't my question. Did you ever  
22 tell anybody from the Sheriff's Office --

23 A. No.

24 Q. -- that you kept that gun?

1 A. No. They -- they refused to take it.

2 Q. Did you tell anybody that you kept that  
3 gun at the Sheriff's Office?

4 A. No. I -- I took it and all the  
5 evidence at the scene with me.

6 Q. And then did you tell anybody at the  
7 Sheriff's Office when you were releasing it back  
8 to the victim's husband?

9 A. No, because they'd already given it up.

10 Q. You --

11 A. Why would I tell them they have an  
12 opportunity to give it up again.

13 Q. All I asked is if you told anybody at  
14 the Sheriff's Office --

15 A. No.

16 MR. BRUNNER: And he answered your  
17 question.

18 MR. TEETOR: No, he didn't.

19 MR. BRUNNER: Yes, he did. Three times  
20 -- he's given you more than what you wanted.

21 MR. TEETOR: And I want him to just  
22 answer the question.

23 MR. BRUNNER: He did then he gave you  
24 more.

1 Q. Did you ever tell anybody at the  
2 Sheriff's Office before you released that gun to  
3 the victim's husband --

4 MR. BRUNNER: Objection.

5 Q. -- that you were going to release it to  
6 the victim's husband?

7 MR. BRUNNER: Asked --

8 A. My fifth no.

9 MR. BRUNNER: Objection asked and  
10 answered.

11 Q. Pardon?

12 A. That's my sixth no now.

13 Q. Do you remember a case involving Martin  
14 Seelig?

15 A. Not specifically.

16 Q. Do you remember a case where your  
17 investigator took possession of a .44 Magnum  
18 pistol and put it in a safe for two months?

19 A. Not specifically.

20 Q. Doesn't ring any bells?

21 A. No.

22 Q. Okay.

23 A. And we get a lot of weapons. I don't  
24 know which case you're talking of.



1 Q. Well, when you take a weapon from a  
2 scene, what's your understanding of what the  
3 coroner's office is supposed to do with it?

4 A. We would like to turn it over to the  
5 Sheriff's Office, but they won't take them. We  
6 would like to give it to them at the scene, but  
7 they refuse them.

8 Q. Tell me an instance where somebody  
9 refused it.

10 A. I just gave you one with the American  
11 Eagle.

12 Q. Okay.

13 A. Betty Jo Castor, they didn't take it  
14 either. They left. They abandoned the scene.

15 Q. Did they refuse to take it?

16 A. Yes.

17 Q. Who did you ask to take it?

18 A. Shirey. Detective Shirey absolutely  
19 refused to take the .50 caliber American Eagle.

20 Q. You asked Detective Shirey to take that  
21 pistol?

22 A. I did.

23 Q. And what did he say?

24 A. No.

1 Q. And then -- so what did you do?

2 A. I asked him if they could make it safe  
3 and then put it in an evidence bag for me, and he  
4 did or his deputy did. And then they left it for  
5 me. They didn't want it. I asked them several  
6 times. They don't want it. I said, okay, I don't  
7 have a problem with it, I'll take the weapon,  
8 doesn't bother me at all. I just don't touch  
9 weapons on scene, period.

10 Q. Why did you want the weapon?

11 A. Because I couldn't leave it there.  
12 They -- they left.

13 Q. Okay.

14 A. They abandoned the scene there too. I  
15 was -- Laurelville PD stayed and so did some  
16 volunteer fireman to fix the scene. They left.  
17 They said we're out of here, we got our bag of pot  
18 -- or our pot plant, and they left.

19 Q. Are you talking about the Betty Jo  
20 Castor case again or did you just switch cases?

21 A. No. No. I'm talking about the  
22 Laurelville case, the American Eagle case, the .50  
23 caliber that I've already mentioned.

24 Q. Well, when you took the weapon in the

1 Betty Jo Castor case, did you ask anybody at the  
2 Sheriff's Office to take it?

3 A. They left. I couldn't -- the --  
4 Detective Downs came in and he said what's going  
5 on? And I said I can't talk to you. And he goes,  
6 why not; we have a job to do. And I said because  
7 you have five criminal charges pending on me and  
8 I'm not allowed to talk to you. Most -- and there  
9 were two or three deputies there. And most people  
10 who knew that they had a conflict at a criminal  
11 scene with a criminal defendant would say, hmm,  
12 shouldn't be here because I have a conflict, I  
13 should walk away. And I -- he kept asking me  
14 questions. And I was a defendant in a case that  
15 he charged me with five charges and I said I  
16 cannot talk to you. I am not going to talk to  
17 you. I am a defendant from your five criminal  
18 charges. And he -- then they -- he went and got I  
19 think Dave Valkinburg. I said I cannot talk to  
20 you, you have charged me with five crimes. I'm  
21 not allowed to talk to you. And then they said,  
22 fine, everybody get out of here and they left.  
23 And Walton said he would stay with me and he did.  
24 And he helped me process the scene. And I'm sure

1 he would tell you the same. And he told me: I  
2 will not leave you here by yourself; I will stay  
3 until the job is done. And he stayed. Logan  
4 Police Department, awesome. Awesome, awesome  
5 people.

6 Q. Are you done?

7 A. Yeah.

8 Q. My question was: Before you left the  
9 Betty Jo Castor scene with the firearm, did you  
10 specifically ask anybody at the Sheriff's Office  
11 to take that gun?

12 A. No, they left. I think I've said that  
13 several times.

14 Q. You've said that a lot more. But you  
15 didn't ask them, correct?

16 A. No, they left.

17 Q. Did you ask them before they left?

18 A. No, because the scene wasn't done yet.  
19 The scene wasn't processed.

20 MR. TEETOR: That's all the questions I  
21 have. Thanks.

22 THE WITNESS: Thank you.

23 MR. BRUNNER: Okay.

24 - - - - -

1                                   REXCROSS-EXAMINATION

2       BY MR. LAMBERT:

3       Q.                   Just a few as follow-up --

4                           THE VIDEOGRAPHER:   Can you grab that  
5       microphone for me?

6                           MR. LAMBERT:   Oh, right.   Yeah.

7       Q.                   I'll talk loud and stay here.   If you  
8       can't hear me, let me know.

9                           Define "coroner case."   You've used  
10      that term today several times.   Define that.

11      A.                  A coroner case is when I have decided  
12      to take charge of the decedent and I will sign the  
13      death certificate.   And recall that on death  
14      certificates in the middle of a death certificate  
15      it says the person signing is -- one check is  
16      certifying physician, and the second check is  
17      coroner.   The certifying physician can only sign  
18      natural deaths, so I have to take all unnatural  
19      deaths as coroner.   Two of my cases -- two of my  
20      charges by your defendants were actually not even  
21      coroner cases.   They charged me with a crime that  
22      wasn't even a coroner case.   If you've got the  
23      death certificates of Mr. -- Ms. Dilly and  
24      Mr. Swackhammer, you would find out they weren't

1 even coroner cases. They charged me with two out  
2 of five crimes that weren't even coroner case.  
3 How does that make -- I had to go to the Bureau of  
4 Vital Statistics to find out who they were.  
5 That's a coroner case, when I take it upon myself  
6 to sign it.

7 Q. From what you said, I gather it's when  
8 there's a unnatural death is a coroner case?

9 A. No. I can take a natural death as a --  
10 as a coroner case. Suppose that I have an  
11 indigent person, hasn't seen a doctor in 50 years  
12 and they die, who's going to sign their death  
13 certificate? Do I have to see the body, no. Do I  
14 have to do an autopsy, no. But I can still sign  
15 the death certificate based upon the knowledge  
16 that I have.

17 Q. Could you also define it then as an  
18 unnatural death or a natural death where there's  
19 not a physician available to sign the death  
20 certificate?

21 A. I have done that before. And I have  
22 done that before. We try to find the physician, a  
23 physician that's known them because they would  
24 have more knowledge than me as coroner.

1 Q. Okay. Now, we've talked about the --  
2 during the summer the times you were gone, one to  
3 Aruba and one to Jamaica, where there was no cell  
4 service and discussions about needing coverage  
5 then. But you indicated in New York since you --  
6 the end of July since you had a cell phone, there  
7 was no need for coverage because you was available  
8 -- had cell service, correct?

9 A. Correct. Well, that's because, yes, I  
10 had -- I had cell service, yes.

11 Q. But you didn't feel you needed someone  
12 to provide coverage?

13 A. No.

14 Q. Okay. In January in Dublin, the two  
15 times you had cell service, correct?

16 A. I -- yes.

17 Q. Okay. Did you receive calls from law  
18 enforcement during either of those two times in  
19 January when you were in Dublin?

20 A. My phone was turned off for my  
21 meetings. My meetings went until after 10:00.

22 Q. I'm sorry?

23 A. My meetings went until after 10:00. We  
24 weren't allowed to have cell phones in there.

1 Q. So you did not have cell service  
2 available then in Dublin because you had your --  
3 had to have your phone turned off?

4 A. Yes.

5 Q. So then that would have been a time  
6 like Jamaica and Aruba when you needed coverage  
7 being out of town, correct?

8 A. Correct.

9 Q. And in January what did you do to  
10 attempt to provide coverage before you went out of  
11 town?

12 A. I didn't have much time. I thought I  
13 had employees --

14 Q. Doctor --

15 A. -- until January 1st.

16 Q. Doctor, does that mean you did nothing?

17 A. I didn't know what to do. I asked --

18 Q. I'm not asking for why?

19 A. Okay. What did I do?

20 Q. Please stop.

21 A. I wrote two letters.

22 Q. If you would answer my question --

23 A. I'm trying.

24 Q. Then -- then if you want a chance to



1 explain, I'll give you that chance.

2 A. I'm trying to answer your question.

3 You asked me what I did --

4 Q. But you're explaining --

5 A. -- and I said I wrote the -- your

6 commissioners --

7 Q. You're --

8 A. -- two letters they never even call me

9 with a response.

10 Q. Okay. You're explaining before you

11 answer the question.

12 A. No. You asked me what I did. I'm

13 telling you I wrote two letters to the

14 commissioners --

15 Q. Okay.

16 A. -- asking for temporary funding until I

17 could get --

18 Q. Okay.

19 A. -- something done.

20 Q. Other than the two letters to the

21 commissioners regarding funding, what, if

22 anything, did you do in January before you went

23 out of town to provide coverage?

24 A. I asked -- I don't know what I did. I

1       can't recall.

2       Q.               You don't recall anything other than --

3       A.               I don't recall what I did.

4                       THE REPORTER:   Excuse --

5       A.               I don't recall what I did.

6       Q.               I'm sorry.   We've been doing that a  
7       lot.

8                       Any contacts you had with these other  
9       physicians that you've told us about was regarding  
10      the time -- was regarding -- strike that.

11                      Any conversations you had with any of  
12      these other physician -- physicians was after  
13      January, correct?

14      A.               Yes.

15      Q.               The contact with Dr. Gorniak was after  
16      January?

17      A.               Yes.

18      Q.               Mike Stephenson, we've talked to him  
19      briefly and he -- in the deposition.   I just want  
20      to follow up there.

21                      As I understand, he was available to do  
22      contract work in 2013 and had provided some  
23      contract work?

24      A.               Is that --

1 Q. Yes.

2 A. -- a question?

3 Q. Yes.

4 A. He had multiple jobs and he --

5 Q. That wasn't what I asked. I asked --

6 A. What's your question?

7 Q. Did he -- did he provide contract  
8 services for you in 2013?

9 A. I don't know.

10 Q. Okay. You indicated you had tried to  
11 call him twice on his home phone for coverage in  
12 2014 and did not reach him, correct?

13 A. Oh, we called multiple times. He -- he  
14 was rarely contactable.

15 Q. I'm talking about in 2014. I believe  
16 in the deposition you indicated --

17 A. Yes.

18 Q. -- that you had called a couple times  
19 and wasn't able to reach him?

20 A. I would say well more -- I would say 20  
21 to 30 times that year, yes.

22 Q. In 2014?

23 A. Oh, yeah.

24 Q. Now, is that his cell or his home phone

1       you called?

2       A.               Yes.

3       Q.               Both?

4       A.               Yes.

5       Q.               Did you leave a message on his cell  
6       phone?

7       A.               No.    Because he could see who calls.  
8       He knows my number.   Yes -- actually, yes, I would  
9       change my answer.   Yes, I would leave him a  
10      message.

11      Q.               And --

12      A.               And I would text him.   I would say are  
13      you available.

14      Q.               Did he ever respond in 2014?

15      A.               Respond to my messages?

16      Q.               Yes, messages for --

17      A.               Sometimes a day or two later.

18      Q.               Did you have a conversation with him at  
19      that time when he responded as to your need for  
20      coverage in 2014?

21      A.               Yes.

22      Q.               And what was his response to your  
23      inquiries in 2014?

24      A.               Yes, I would be happy to do it if you

1       could get a hold of me. But he works 24-hour  
2       shifts in Vinton County with no cell phone  
3       service. He lives out in the very rural part and  
4       his cell phone doesn't work there. And sometimes  
5       he answers his phone and sometimes he doesn't.

6       Q.            Okay.

7       A.            He used to work in Hocking County. So  
8       if you want me to clarify that.

9       Q.            Uh-huh.

10      A.            He used to work for Hocking County EMS  
11      and he was always contactable. But when he moved  
12      to Vinton County, I couldn't contact him anymore.  
13      He became difficult to contact.

14      Q.            Regarding the Donahoe death, you  
15      indicated you were refused access to the scene; is  
16      that correct?

17      A.            If that's who it was. I don't know.  
18      There were three files that I've supplied for  
19      discovery. You'd have to check the names. I -- I  
20      would hate to give you the wrong name and then --  
21      I know that there was a person by that name.  
22      Whether she's one of the three, I can't remember.

23      Q.            Well --

24      A.            If I would have known that was going to

1 be a question, I would have prepared for it.

2 About 5,000 deaths I've been involved in. I --

3 it's hard for me to pinpoint certain ones.

4 Q. If John Walker would state that you  
5 told him you had to have something in writing from  
6 the two commissioners before you would authorize  
7 the moving of the body, would he be lying?

8 A. No, I don't think so. That could be  
9 his interpretation. You know, whether it's a text  
10 message or an e-mail or whatever, I just need  
11 something. I'm not asking for any kind of --  
12 whatever proposal thing they did. I just --

13 Q. If John --

14 A. -- needed something.

15 Q. I'm sorry. I never know when you are  
16 done, so --

17 A. I could have gotten a text message from  
18 Sandy Ogle and John Walker saying everything's  
19 okay. That would have been good enough for me.

20 Q. Just everything's okay would have been  
21 good enough?

22 A. Yeah. If they said that they would  
23 cover it, sure.

24 Q. If John Walker says that you indicated

1 to him you needed a written resolution from at  
2 least two commissioners, would that be a lie?

3 A. I wouldn't call it a lie. I call it  
4 a -- a misinterpretation of what I was wanting.  
5 Did I specifically ask for a resolution, no.

6 Whether he took it that way, upon himself, I would  
7 assume that he came up with that means of doing it  
8 through the prosecutor.

9 Q. You would assume what?

10 A. I assume that there was some sort of  
11 meeting, especially if the prosecutor -- she  
12 probably came up with the idea of a -- what was  
13 it, a resolution that was -- I can't remember what  
14 the term was.

15 Q. Why do you assume she came up with that  
16 idea?

17 A. I would assume she did it because there  
18 was -- looked like -- they wrote I, the, these  
19 three people. I don't think that those three  
20 commissioners would have written something like  
21 that. I'm just guessing.

22 Q. You assume she come up with?

23 A. Maybe she didn't do it. I don't know  
24 who did it.

1 Q. You assume that she came up with the  
2 idea to send the resolution or the idea that he  
3 asked for a resolution? I'm not sure I --

4 A. No, to send a resolution. The res --  
5 the word "resolution" never came up with us. We  
6 -- that's not a term that John and I discussed on  
7 the phone.

8 Q. So from what you're --

9 A. I didn't even know it was called a  
10 resolution.

11 Q. So from what you're telling us the  
12 conversation was John Walker came up with the  
13 fact, him or the prosecutor, that he needed a  
14 written resolution then; is that what you're  
15 saying?

16 A. I would say we did not specifically  
17 state together that I needed a written resolution;  
18 that is correct. I asked for reassurance, that's  
19 all I asked for. However they chose to do it was  
20 up to them.

21 Q. I guess I'm not clear as to why you  
22 believe the prosecutor came up with that. Could  
23 you --

24 A. Well, it said I and then it put the



1 three commissioners names and then it was signed  
2 by somebody, I don't know who signed it. It  
3 looked like a female's handwriting. Didn't look  
4 like a male's handwriting.

5 Q. The -- the resolution --

6 A. Could have been -- I don't know. Is it  
7 -- I don't know who it was. I'll retract my  
8 statement. How's that? I don't know who did it.

9 Q. Let's talks briefly about this  
10 fictitious recording I think what's you -- the way  
11 you described it. Who do you claim made these  
12 recordings that were spliced together?

13 A. I think I already said I don't know. I  
14 do know that Laina Fetherolf was accused by  
15 William Kaepner, K-E -- K-A-E-P-P-N-E-R, that  
16 when I left the room that there was a gathering  
17 and there was an -- of Laina Fetherolf is all I  
18 know, and that she was acting like I was still in  
19 the room with a conversation. And he thought it  
20 was unfair, whatever was going on, so he called my  
21 office to tell me about it.

22 Q. And when you say --

23 A. And then I --

24 Q. I'm sorry. Again, I never know when

1       you're done, but I'll wait until --

2       A.               I'm done.

3       Q.               Okay. What do you mean by a gathering?

4       A.               I don't know. He said that people got  
5       together afterwards and she acted like she was  
6       still talking to me. I don't know. Ask him. He  
7       was there.

8       Q.               Okay. Who do you claim spliced these  
9       tapes together or did the actual act of creating  
10      the fictitious tape?

11      A.               I don't know.

12      Q.               Do you have any knowledge or  
13      information as to who created the fictitious tape  
14      or participated in the creation of the fictitious  
15      tape?

16      A.               No.

17      Q.               You believe someone actually spliced  
18      two different pieces of tape together, though?

19      A.               Yes. Because I'm on there, and when  
20      I'm asked questions, there's no response from me  
21      because I wasn't there in the second part.

22      Q.               I didn't -- I didn't understand that.

23      A.               There was a conversation where I say  
24      even hamburger goes bad in the fridge, and then

1 the next part of the conversation is Laina  
2 Fetherolf saying I can't believe you just  
3 referred to deceased people as hamburger. The  
4 problem is is I wasn't there at the time it was  
5 being said. So there was a time gap, but the  
6 spliced tape makes it looks like she's talking to  
7 me. It's fictitious. It's not real. It didn't  
8 happen. And William Kaepner will testify to  
9 that.

10 Q. Have you had any mental health  
11 treatment or evaluations since July 1st, 2014?

12 A. No.

13 Q. Have you had any mental health or  
14 medical provider recommend that you have mental  
15 health treatment or evaluation since July 1st,  
16 2014?

17 A. No.

18 Q. Have you told any mental health  
19 provider or medical provider about having  
20 emotional or mental health problems since July  
21 1st, 2014?

22 A. No.

23 Q. Okay. I don't have anything further.

24 - - - - -

1                                   REXCROSS-EXAMINATION

2           BY MR. BARBIERE:

3           Q.           I just have a couple more.

4                           Is William Kaepner a patient of yours?

5           A.           Yes.

6           Q.           Have you read the first part of your  
7           deposition, the transcription?

8           A.           Yes.

9           Q.           There is something in that I'm confused  
10          about I want to ask you about.

11          A.           Okay.

12          Q.           You referred in the first part of your  
13          deposition to some meticulous notes that you have  
14          taken at some point. At one point you said they  
15          were contemporaneous with the events and then  
16          later you said something different. I want to  
17          first have you identify what are the meticulous  
18          notes that you're referring to? Are these  
19          something that you handwrote or are they typed up?

20                       MR. BRUNNER: I'm going to instruct him  
21          not to answer because I went out in the hall and I  
22          answered this question before. Anything that  
23          we're talking about here is attorney/client  
24          privileged.

1 MR. BARBIERE: Okay. Well, I  
2 haven't --

3 MR. BRUNNER: And I explained that in  
4 the hallway.

5 MR. BARBIERE: I haven't --

6 MR. BRUNNER: I very clearly explained  
7 that in the hallway off the record.

8 MR. BARBIERE: I haven't gotten to  
9 anything that's attorney/client privileged yet. I  
10 just asked him if he handwrote them or if they're  
11 typed.

12 A. There's no notes.

13 MR. BRUNNER: It's attorney/client  
14 privilege and we're not going to talk about the  
15 documents.

16 MR. BARBIERE: So you're -- okay.  
17 Well, let me keep asking questions and you can  
18 keep instructing him not to answer.

19 MR. BRUNNER: No. What time are we at  
20 now?

21 THE WITNESS: This tape, 1 hour 13  
22 minutes.

23 MR. BRUNNER: Total.

24 THE VIDEOGRAPHER: First tape was 1

1 hour 44 minutes.

2 MR. TEETOR: So ask the questions.

3 MR. BARBIERE: So we're at about 3  
4 hours.

5 MR. BRUNNER: No. Total, both days  
6 we're over 7 hours. I'm not -- he's not answering  
7 any questions. I went out in the hallway and I  
8 explained it to you. If that explanation is not  
9 good enough for you, we're not answering any  
10 questions.

11 MR. TEETOR: Well, Rick, he has to made  
12 make a record, which means he can ask the  
13 questions and you can instruct him not to answer.

14 MR. BRUNNER: No. We're past the time.  
15 We're over seven hours. I'm not going to do that.

16 MR. TEETOR: We agreed we would do four  
17 hours today.

18 MR. BRUNNER: I am over seven hours.  
19 I'm going to bring him back so you can ask him  
20 about damages. I'm not going to get into this  
21 attorney/client privilege. If my word is not good  
22 enough for you in the hallway --

23 MR. BARBIERE: I didn't say your word  
24 wasn't good enough.

1                   MR. BRUNNER: If my word is not good  
2 enough for you in the hallway --

3                   MR. BARBIERE: I'm not --

4                   MR. BRUNNER: -- then we're not going  
5 there today. We're not staying around for this.

6                   MR. BARBIERE: I'm not saying that your  
7 word isn't good enough. I have to make a record.  
8 I'm just going to ask --

9                   MR. BRUNNER: No, you don't.

10                  MR. BARBIERE: -- him a couple  
11 questions.

12                  MR. BRUNNER: He's not answering any  
13 questions about what I told you about in the  
14 hallway.

15                  MR. BARBIERE: Okay. And I'm not going  
16 to ask him about that.

17                  MR. BRUNNER: It's attorney/client  
18 privilege.

19                  MR. TEETOR: There's nothing  
20 attorney/client privilege about asking him if it's  
21 handwritten or not.

22                  MR. BRUNNER: I'm telling you I've told  
23 you what the document was. And I told you it was  
24 an attorney/client privilege and we're not getting

1       into it.

2                   MR. TEETOR:   Then let him make his  
3       record.

4                   MR. BRUNNER:   Why?   We're --

5                   MR. TEETOR:   Because he has a right to  
6       make a record.

7                   MR. BRUNNER:   -- past our seven hours.  
8       I'm going to bring him back for damages.   I'm not  
9       sticking around here for this.

10                  MR. TEETOR:   You --

11                  MR. BARBIERE:   You agreed --

12                  MR. TEETOR:   -- agreed we'd do four  
13       hours.

14                  MR. BRUNNER:   And I am not going to get  
15       into the issues that are attorney/client  
16       privilege.   I'm telling you that's --

17                  MR. BARBIERE:   I'm not going to ask him  
18       any questions that are protected by the  
19       attorney/client privilege.

20                  MR. BRUNNER:   I'm not going to tell you  
21       about him -- what he -- what he prepared for  
22       counsel.   Now, if that -- if my explanation to you  
23       in the hallway is not good enough, then there's  
24       nothing I can do about that.



1           MR. LAMBERT: Since I don't believe I  
2 was present, are we -- are you claiming these  
3 notes that he's referred to in the deposition  
4 previously were actually prepared after he  
5 contacted counsel and were not contemporaneous?

6           MR. BRUNNER: They were prepared after  
7 discussion with counsel, yes.

8           MR. LAMBERT: Okay. Okay. Because  
9 that was my understanding they're -- that he had  
10 indicated there were -- there were notes that were  
11 contemporaneous.

12           MR. BRUNNER: Well, contemporaneous  
13 with some things. But after -- after counsel had  
14 been retained.

15           MR. LAMBERT: But --

16           MR. BARBIERE: You're talking about  
17 after you were retained?

18           MR. BRUNNER: Yes.

19           MR. LAMBERT: He could ask about the  
20 ones -- any notes prior to that; would you agree,  
21 Rick.

22           MR. BRUNNER: As long as they weren't  
23 prepared by Mr. -- for Mr. Kernan, but, yes.

24           MR. BARBIERE: And that's what I want

1 to make sure.

2 MR. BRUNNER: Yeah. Okay.

3 Q. What I want to make sure is are there  
4 any notes that you took regarding any of these  
5 events that are subject -- relevant to your  
6 complaint that occurred before you met with  
7 Mr. Brunner?

8 A. No.

9 MR. BARBIERE: Okay.

10 MR. LAMBERT: That was simple enough.

11 MR. BRUNNER: Your discrepancy I  
12 explained it in the hallway.

13 MR. BARBIERE: You did. But I needed  
14 to know that answer.

15 MR. BRUNNER: Yeah. All right.

16 MR. BARBIERE: Thank you. That's all I  
17 have.

18 MR. BRUNNER: Thank you. All right.  
19 We'll read.

20 THE VIDEOGRAPHER: We're off the  
21 record. The time is 5:49.

22 (Signature not waived.)

23 - - - - -

24 Thereupon, the foregoing proceedings

concluded at 5:49 p.m.

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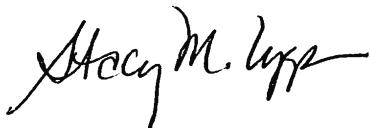
1 State of Ohio : C E R T I F I C A T E  
2 County of Franklin: SS

3 I, Stacy M. Upp, a Notary Public in and for the  
4 State of Ohio, certify that David L. Cummin was by  
5 me duly sworn to testify to the whole truth in the  
6 cause aforesaid; testimony then given was reduced  
7 to stenotype in the presence of said witness,  
8 afterwards transcribed by me; the foregoing is a  
9 true record of the testimony so given; and this  
10 deposition was taken at the time and place  
11 specified on the title page.

12 Pursuant to Rule 30(e) of the Federal Rules of  
13 Civil Procedure, the witness and/or the parties  
14 have not waived review of the deposition  
15 transcript.

16 I certify I am not a relative, employee,  
17 attorney or counsel of any of the parties hereto,  
18 and further I am not a relative or employee of any  
19 attorney or counsel employed by the parties hereto,  
20 or financially interested in the action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
22 and affixed my seal of office at Columbus, Ohio, on  
23 June 23, 2016.

24 

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Stacy M. Upp, Notary Public - State of Ohio  
My commission expires August 6, 2016.

Witness Errata and Signature Sheet  
 Correction or Change Reason Code  
 1-Misspelling 2-Word Omitted 3-Wrong Word  
 4-Clarification 5-Other (Please explain)

Page/Line	Correction or Change	Reason Code
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I, David L. Cummin, have read the entire transcript of my deposition taken in this matter, or the same has been read to me. I request that the changes noted on my errata sheet(s) be entered into the record for the reasons indicated.

Date\_\_\_\_\_Signature\_\_\_\_\_

The witness has failed to sign the deposition within the time allowed.

Date\_\_\_\_\_Signature\_\_\_\_\_

Ref: SU21550DC S-SU P-DL